

OCTOBER 2, 2020

Defendants move to dismiss for delay under rule 24.01. The action is over 7 years old and the Plaintiff has not moved it forward. It has never been pre-tried and in 2017 was struck off the trial list due to the Plaintiff's failure to answer undertakings.

The Plaintiff has filed no response to this motion. I heard by email from Plaintiff's counsel, Patrick Mazurek, asking for an extension of time, which I granted. I then heard from Defendants' counsel, Nathan Fabiano, that the parties had agreed to a Consent Order setting a new timetable, but immediately after receiving that email I received another one from Mr. Mazurek asking to hold off on his client's consent as he was re-thinking his position. Mr. Mazurek said that he would have his client's position to me in a day or two, but he has never gotten back to me and it is now 10 days later. The only "position" I have is Plaintiff is an email from Mr. Mazurek to my assistant saying he is "chagrined" that he cannot get instructions from his client. This has gone on long enough, and the action must be dismissed. Plaintiff has spent over \$30,000 in substantial undenied costs. That is a tad high. Plaintiff will pay \$25,000.

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDINGS COMMENCED AT TORONTO

MOTION RECORD

ZAREK TAYLOR GROSSMAN HANRAHAN LLP
Barristers & Solicitors
20 Adelaide Street East, Suite 1301
Toronto, Ontario M5C 2T6

Brian M. Yung/Nathan M. Fabiano
416-777-2811
416-777-2050 (fax)

Lawyers for the Defendants

Order to go on subject and completed by me.

[Signature] HANRAHAN

ONTARIO SUPERIOR COURT OF JUSTICE

)
THE HON. JUSTICE E.M. MORGAN) Friday, the 2nd day of October 2020
)

B E T W E E N:

BRIAN CHARLES TIMMONS

Plaintiff

- and -

REBECCA ABDALLAH and YOUSSEF ABDALLAH

Defendants

ORDER

THIS MOTION, made by Defendants, Rebecca Abdallah and Youssef Abdallah, was heard this day at the Toronto Courthouse at 393 University Avenue, Toronto, Ontario.

UPON READING the motion record of the Defendants:

1. **THIS COURT ORDERS** that the herein action be dismissed for delay.

2. **THIS COURT FURTHER ORDERS** that the Plaintiff pay to the Defendants, costs of this action, fixed in the amount of \$25,000, within 30 days of the date of hearing of this motion.

A handwritten signature in blue ink, appearing to read "Morgan J.", is centered on a light blue rectangular background.

Morgan J.

BRIAN CHARLES TIMMONS vs. REBECCA ABDALLAH and
YOUSSEF ABDALLAH

CV-13-479719

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT TORONTO

ORDER

ZAREK TAYLOR GROSSMAN HANRAHAN LLP
Barristers & Solicitors
20 Adelaide Street East, Suite 1301
Toronto, Ontario M5C 2T6

Brian M. Yung/Nathan M. Fabiano
416-777-2811
416-777-2050 (fax)

Lawyers for the Defendants

