

## ACTING AS A REPRESENTATIVE FOR A CORPORATION

*Prepared by Law Help Ontario, a project of Pro Bono Law Ontario*

*This publication contains general information intended to assist the public at large. It is not legal advice about your situation. You should consult a lawyer for advice on your particular situation. This publication is not a substitute for your or your lawyer's own research, analysis and judgment.*

### INTRODUCTION

The *Rules of Civil Procedure* generally require that a corporation that is a party to a legal proceeding must be represented by a lawyer. However, this requirement is not set in stone. Rule 15.01(2) provides courts with discretion to allow a non-lawyer to represent a corporation in legal proceedings. Below is a summary of some of the circumstances in which courts have allowed (or “granted leave”) for a non-lawyer to represent a corporation.

### UNDER WHAT CIRCUMSTANCES MAY A NON-LAWYER REPRESENT A CORPORATION?

As a general rule, the courts require that corporations be represented by lawyers in legal proceedings. However, there are a limited number of circumstances in which the courts have allowed non-lawyers to act as a corporation's legal representative. It is up to the corporation seeking leave to be represented by a non-lawyer to satisfy the court that the general rule should not apply and that the proposed non-lawyer is an appropriate person to represent the corporation.

Some of the factors the courts have relied on to determine whether or not a non-lawyer should be granted leave to represent a corporation include the following:

- whether the corporation is small, single-person company, in which case the court may allow that person to represent his or her own company;
- whether a court has made an adverse finding of credibility against the person proposing to represent the corporation;
- the ability of the corporation to pay for a lawyer;
- whether the individual is a director, officer, sole shareholder or other senior representative of the corporation who has been duly authorized by the board of directors to act as a legal representative of the corporation;

- whether the nature of the action and the complexity of the issues to be decided would make it seriously unfair to the opposite party to have the corporation represented by a non-lawyer; and
- whether the interests of the corporation are aligned with those of the individual seeking to represent the corporation.

It should be noted, as in many areas where courts have identified factors that it will consider, that there could be other important factors not listed above. It is important to think about anything that could positively or negatively affect the proposed non-lawyer's ability to represent the corporation;

Recently, the courts have stressed the importance of the requirement that a corporation may only be represented by a non-lawyer where that individual is also a director, officer or shareholder of the corporation. The courts have also made it clear that Rule 15.01(2) is not intended to allow a non-lawyer who is unrelated to the corporation to act as an unlicensed lawyer for the corporation.

### **WHAT PROCEDURE DO I USE TO ASK A COURT TO ALLOW ME TO REPRESENT A CORPORATION?**

The proper procedure to obtain the court's permission to act as a corporation's representative is to bring a motion. As with any motion, there is a possibility that the other parties will agree to what you are seeking so you should ask them in advance if they have a problem with you representing the corporation and, if so, why. You can find more information about filing motions in the Superior Court of Justice by looking at the Law Help Ontario *Guide to Motions in a Civil Action*.

### **WHAT AM I ASKING THE COURT FOR?**

The relief you would be seeking from the court is an order of the court granting you leave to act as the corporation's legal representative.

### **DO I MAKE A MOTION TO A MASTER OR TO A JUDGE?**

A motion seeking leave to act as a corporation's legal representative should be directed to a master, pursuant to Rule 37.02(2) of the Rules of Civil Procedure.

### **IS THERE ANYTHING ELSE I WILL NEED?**

In order to bring this motion, you will also need to prepare an Affidavit and Motion Record. You can find more information about affidavits by looking at the Law Help Ontario *A Guide to Preparing Your Affidavit*.

The following guidebooks are available online at [www.lawhelpontario.org](http://www.lawhelpontario.org):

*Guide to Preparing Your Affidavit* and *Guide to Motions in a Civil Action*.

## WHERE CAN I GET MORE INFORMATION?

The Ministry of the Attorney General has a series of guides that are available at court offices and at the Ministry of the Attorney General website. The site also has general information on civil cases: [www.attorneygeneral.jus.gov.on.ca](http://www.attorneygeneral.jus.gov.on.ca)

Choose your preferred language, click on "Court Services" at the left side of the page, and scroll down to "Civil Cases."

Legal research resources are accessible to the public through CanLII available through the following: <http://www.canlii.ca>

To obtain forms under the *Rules of Civil Procedure*, visit the Ontario Court Forms website at: <http://www.ontariocourtforms.on.ca>. Choose your preferred language and click on "Rules of Civil Procedure Forms".

The "Guide to Ontario Courts" is available through: <http://www.ontariocourts.on.ca/>

The *Rules of Civil Procedure* are available through the e-laws website. Go to [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca) and follow these steps:

1. Choose your preferred language
2. Click on "Search or Browse Current Consolidated Law"
3. Under "Browse Current Consolidated Law," click on "C"
4. Scroll down to "Courts of Justice Act"
5. Click on the "plus" sign to the left of "Courts of Justice Act"
6. Click on "Rules of Civil Procedure"