

CITATION: 1599669 Ontario Inc. (Springlakes.ca.inc.) v. 1617798 Ontario Inc., 2011
ONCA 531
DATE: 20110720
DOCKET: C53331

COURT OF APPEAL FOR ONTARIO

Doherty, Laskin and Simmons JJ.A.

BETWEEN

1599669 Ontario Inc. carrying on business as Springlakes.ca.inc. and Stephen Smith

Plaintiffs (Appellants)

and

1617798 Ontario Inc., 746874 Ontario Ltd. carrying on business as Rosten Investments
Inc., 1096508 Ontario Inc. carrying on business as JJ Barnicke London Windsor Sarnia
Ltd., Vince De Rosa and Gordon Laschinger

Defendants (Respondents)

Darren J. Smith, for the plaintiffs (appellants)

Judy Hamilton, for the defendants (respondents)

Heard: July 14, 2011

On appeal from the judgment of Justice J.E. Kelly of the Superior Court of Justice dated
November 13, 2008.

APPEAL BOOK ENDORSEMENT

[1] The appellant advanced one submission in oral argument. He contends that the motion judge went beyond the bounds of the former Rule 20 and made findings of fact and credibility determinations.

[2] We disagree. Even under the former Rule 20, motion judges had a limited power to make findings in the context of determining whether there was a genuine issue for trial. We are not convinced that the motion judge went beyond that power given the material that was before her. Her use of the former Rule 20 finds support in *Rozin v. Ilitchev* (2003), 66 O.R. (3d) 410 at para. 9.

[3] The appeal is dismissed. Costs to the respondents in the amount of \$15,000, inclusive of disbursements and all applicable taxes.