

# COURT OF APPEAL FOR ONTARIO

CITATION: East Elgin Concrete Forming Limited v. 9001522 Canada Limited,  
2023 ONCA 175

DATE: 20230313

DOCKET: M53922 & M54107 (C70837)

Pepall, Harvison Young and George JJ.A.

BETWEEN

East Elgin Concrete Forming Limited

Plaintiff

(Respondent/Moving Party/  
Responding Party by Cross-Motion)

and

9001522 Canada Limited

Defendant

(Appellant/Responding Party/  
Moving Party by Cross-Motion)

Stuart Mackay, for the moving party/responding party by cross-motion

Patrick Bakos, for the responding party/moving party by cross-motion

Heard and released orally: March 10, 2023

## REASONS FOR DECISION

[1] We agree with the moving party, East Elgin Concrete Forming Limited, that this court does not have jurisdiction over this appeal which falls under s. 71(1) of the *Construction Act*, R.S.O. 1990, c. C.30. Accordingly, we are quashing the

appeal. We decline to exercise our discretion to transfer it to the Divisional Court.  
The responding party's cross-motion in that regard is dismissed.

[2] The moving party East Elgin Concrete Forming Limited is granted costs of \$3,500 on a partial indemnity scale inclusive of disbursements and applicable tax.

"S.E. Pepall J.A."  
"A. Harvison Young J.A."  
"J. George J.A."