

APPENDIX I: ONTARIO SANCTIONS & DISCOVERY ENFORCEMENT POWERS

Rule	Breach	Sanction / Discovery enforcement power
30.06	Where affidavit of documents is incomplete or privilege improperly claimed	Court may: <ul style="list-style-type: none"> - Order cross-examination on the affidavit of documents; - Order service of a further and better affidavit of documents; - Order production of a document, if not privileged; and - Inspect a document for the purpose of determining its relevance or validity of a claim of privilege.
30.08(1)	Where a party fails to disclose a document in an affidavit of documents, or produce it in compliance with the rules, an order of the court, or undertaking	<ul style="list-style-type: none"> - The party may not use the document at trial, if it is favourable to his or her case, except with leave of the trial judge. - The court may make such order as is just, if the document is not favourable to his or her case.
30.08(2)	Where a party fails to serve an affidavit of documents or produce a document for inspection in compliance with the rules or order of the court	Court may: <ul style="list-style-type: none"> - Revoke or suspend the party's right to initiate or continue an examination for discovery. - Dismiss the action, if the party is a plaintiff, or strike out the statement of defence, if the party is a defendant; and - Make such other order as is just.
30.09	Where a party has claimed privilege and does not abandon the claim by giving written notice within 10 days after the action is set down for trial	<ul style="list-style-type: none"> - The party may not use the document at trial, except to impeach the testimony of a witness, unless leave of the trial judge is obtained.
31.07(1)	Where a person refuses to answer a proper question or claims privilege, and fails to provide the information prior to 60 days before the start of the trial	<ul style="list-style-type: none"> - The party may not introduce the information at trial except with leave of the trial judge.
31.07(2)	Where person examined for discovery undertakes to answer a question but fails to do so prior to 60 days before the start of the trial	<ul style="list-style-type: none"> - The party may not introduce the information at trial except with leave of the trial judge.
31.09(1)	Where it is determined that a person examined for discovery has incorrectly or incompletely answered a question	<ul style="list-style-type: none"> - The party shall provide the correct information to the other parties as soon as possible.
31.09(3)	Where a party fails to comply with the duty to correct answers	<ul style="list-style-type: none"> - If the information is favourable to his or her case, the information may not be introduced at trial without leave of the trial judge. - If the information is not favourable to his or her case, the court may make such order as is just.
34.14(1)	Where there is an excess of improper questions or interference, or an examination is being conducted in bad faith, or the answers are evasive or unnecessary, or there has been improper refusal to produce relevant documents	<ul style="list-style-type: none"> - An examination may be adjourned by either the person being examined or a party for the purpose of moving for directions about the continuation of the examination, or for an order terminating or limiting its scope.
34.14(2)	Where the court finds that a person's conduct either required a motion under subrule (1) or a person improperly adjourned under subrule (1)	Court may: <ul style="list-style-type: none"> - Order the person to pay personally and forthwith the costs of the motion, any costs thrown away and the costs of any continuation of examination; - Fix the costs; and - Make such other order as is just.

Rule	Breach	Sanction / Discovery enforcement power
34.15(1)	Where a person fails to attend an examination, or at the examination refuses to take an oath or make an affirmation, or answer any proper question, or to produce a document that is required to be produced, or comply with an order under rule 34.14	Court may: <ul style="list-style-type: none"> - Where an objection to a question is held to be improper, order or permit the person examined to re-attend at their own expense and answer the question and any other proper questions arising from the answer; - Where the person is a party or a person is examined on behalf of a party, dismiss the party's proceeding or strike out the party's defence; - Strike out all or part of the person's evidence, including any affidavits; and - Make such other order as is just.
34.15(2)	Where a person does not comply with an order under subrule (1) or rule 34.14	Court may: <ul style="list-style-type: none"> - Make a contempt order against the person
35.04(2)	Where the person being examined by written questions refuses or fails to answer a proper question, or the answer is insufficient	Court may: <ul style="list-style-type: none"> - Order the person to answer or give a further answer either by affidavit or oral examination.
35.04(3)	Where the court determines that some or all answers to written questions are either evasive, unresponsive or otherwise unsatisfactory	Court may: <ul style="list-style-type: none"> - Order the person examined to submit to oral examination on such terms respecting costs and other matters as are just.
35.04(4)	Where a person refuses or fails to answer a proper question on written examination, or to produce a required document	Court may: <ul style="list-style-type: none"> - If the person is a party or acting on behalf of or in place of party, dismiss the party's action or strike out its defence; - Strike out all or part of the person's evidence; and - Make such other order as is just.
35.05	On a motion by the person being examined, or by any party	Court may: <ul style="list-style-type: none"> - Terminate the written examination or limit its scope where there is an excess of improper questions; or - Terminate the written examination where the examination is being conducted in bad faith, or in a manner so as to annoy, embarrass or oppress the person being examined
60.12	Where a party fails to comply with an interlocutory order	Court may, in addition to any other sanction provided by the rules: <ul style="list-style-type: none"> - Stay the party's proceeding; - Dismiss the party's proceeding or strike out the party's defence; or - Make such other order as is just.