

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *Bilomba Inc. (Fully Promoted Canada) v. Barrett*, 2026 NSSC 13

**Date:** 20260115

**Docket:** *Hfx*, No. 530381

**Registry:** Halifax

**Between:**

Bilomba Inc. (o/a Fully Promoted Canada)

*Plaintiff*

v.

John (Jack) Barrett, 3338255 Nova Scotia Limited, Creative Cresting Print and  
Promo Ltd., and Aaron Philip Keith Barrett

*Defendants*

<b>Motions for Contempt</b>
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**Judge:**

The Honourable Justice Gail L. Gatchalian

**Heard:**

December 4, 2025, in Halifax, Nova Scotia

**Final Written Submissions:**

Plaintiff, December 11, 2025  
Defendants, December 18, 2025

**Counsel:**

Robert Mroz and Scott Hickman, for the Plaintiff  
Douglas Schipilow, for the Defendants

**By the Court:**

**Introduction**

[1] The Plaintiff, Bilomba Inc. (o/a Fully Promoted Canada) moves for an order finding the Defendants John (Jack) Barrett, Creative Cresting Print and Promo Ltd. and Aaron Philip Keith Barrett in contempt of an interlocutory injunction order. Bilomba does not seek a finding of contempt against the Defendant 3338255 Nova Scotia Limited.

[2] The interlocutory injunction order was granted by the Honourable Justice C. Richard Coughlan and issued on March 12, 2025. Justice Coughlan's decision sets out the background to this dispute: *Bilomba Inc. (Fully Promoted Canada) v. Barrett*, 2025 NSSC 124.

[3] Bilomba seeks a finding that Jack Barrett, Creative Cresting and Aaron Barrett are in contempt of the non-competition provision in paragraph 1 of the Order: see the Notice of Motion filed on August 5, 2025 and the Amended Notice of Motion filed on September 24, 2025. Bilomba relied on the following affidavits in support of this motion:

- the Affidavit of Muhammad Yousuf Sandeela, Director and Chief Executive Officer of Bilomba, sworn on July 25, 2025;
- the Affidavit of Chantal Osborne, of Xpera Risk Mitigation & Investigation, sworn on July 31, 2025;
- the Affidavit of Joseph Marc Lessard of Xpera, sworn on July 25, 2025;
- two solicitor's Affidavits of Noah Yao, one sworn on August 1, 2025 and the August 20, 2025; and
- the solicitor's Affidavit of Robert Mroz, sworn on August 22, 2025.

[4] Bilomba also seeks a finding that Jack Barrett and Creative Cresting are in contempt of paragraphs 4 to 6 of the Order by failing to return, transfer or assign certain things to Bilomba, including: (a) a client list, (b) any phone numbers used by the Defendants' franchises, (c) the Google Business Page and (d) client artwork: see the Notice of Motion filed on May 30, 2025. In support of this motion, Bilomba relied on the following affidavits:

- the Affidavit of Mr. Sandeela, sworn on November 12, 2025;
- the Affidavit of Mr. Mroz, sworn on November 18, 2025); and

- the Affidavit of Mr. Yao, sworn on November 18, 2025

[5] Jack Barrett, Creative Cresting and Aaron Barrett relied on the following in response to the motions:

- the Statutory Declaration of Jack Barrett, filed on August 20, 2025;
- the Affidavit of Aaron Barrett, sworn on August 20, 2025; and
- the Affidavit of Jack Barrett, sworn on November 27, 2025.

[6] The hearing of the motions took place on December 4, 2025. The affiants were not cross-examined.

[7] At the hearing, counsel informed the Court that the Defendants had provided Bilomba with a USB drive containing the requested client artwork, which Bilomba had not yet had the chance to review. I provided the parties with time to determine whether the issue of client artwork could be resolved, failing which Bilomba would have the right to file supplementary submissions and affidavit evidence on the issue no later than December 11, 2025, and the Defendants would have the right to respond no later than December 18, 2025. The parties did not resolve the issue and further written submissions were filed on the client artwork issue. Bilomba relied on: (a) an Affidavit of Aileen Foley, legal assistant, sworn on December 10, 2025;

and (b) a further Affidavit of Mr. Sandeela, sworn on December 10, 2025. The Defendants relied on a further affidavit of Jack Barrett, sworn on December 18, 2025. Once these further submissions and affidavits were filed, the court asked the parties whether they wished to schedule a further appearance. They responded that they did not.

### **The Elements of Civil Contempt**

[8] Writing for the Court in *Carey v. Laiken*, 2015 SCC 17, Justice Cromwell identified three elements which, if proven beyond a reasonable doubt, could give rise to a finding of civil contempt:

1. The existence of a clear and unequivocal order setting out what should or should not be done (at para. 33);
2. The alleged contemnor had actual knowledge of the order (at para. 34), and
3. The alleged contemnor must have intentionally done the act that the order prohibits or intentionally failed to do the act that the order compels (at para. 35).

[See also *A.M.G. v. C.J.K.*, 2024 NSCA 62 at para.65]

### ***Clear and Unequivocal***

[9] With respect to the first element, I must be convinced that the order is clear.

Justice Cromwell stated as follows:

[33] The first element is that the order alleged to have been breached “must state clearly and unequivocally what should and should not be done”: *Prescott-Russell*,<sup>[13]</sup> at para. 27; *Bell ExpressVu*,<sup>[14]</sup> at para. 28, citing with approval *Jaskhs Enterprises Inc. v. Indus Corp.*, 2004 CanLII 32262 (Ont. S.C.J.), at para. 40. This requirement of clarity ensures that a party will not be found in contempt where an order is unclear: *Pro Swing*,<sup>[15]</sup> at para. 24; *Bell ExpressVu*, at para. 22. **An order may be found to be unclear if, for example, it is missing an essential detail about where, when or to whom it applies; if it incorporates overly broad language; or if external circumstances have obscured its meaning:** *Culligan Canada Ltd. v. Fettes*, 2010 SKCA 151, 326 D.L.R. (4th) 463, at para. 21.

[Emphasis added; see also *A.M.G.* at para.66]

[10] The reasons of the Saskatchewan Court of Appeal in *Culligan Canada Ltd. v. Fettes*, 2010 SKCA 151, cited by Justice Cromwell, underscore the importance of considering the clarity of the order:

[20] In *Baumung*,<sup>[16]</sup> the Court referred to numerous authorities to illustrate the statement that **"in order to ground a contempt finding, a court order must be clear or, to put the point in another way, that an ambiguity in an order should be resolved to the benefit of the alleged contemnor"** (at para. 27). Similarly, in *Sonoco Ltd. v. Local 433, Vancouver Converters of the International Brotherhood of Pulp, Sulphite and Paper Mill Workers* (1970), 1970 CanLII 763 (BC CA), 13 D.L.R. (3d) 617 at p. 621, the British Columbia Court of Appeal wrote: "persons enjoined ought to be able to tell from the order what they may not do without having to decide whether they are acting lawfully or not." **Further, the very clarity of the court order must be proven beyond a reasonable doubt before a finding of contempt will be sustained** (see: *Bhatnager v. Canada (Minister of Employment and Immigration)*, 1990 CanLII 120 (SCC), [1990] 2 S.C.R. 217 at p. 224).

[Emphasis added; see also *A.M.G.* at para.67]

### ***Actual Knowledge of the Order***

[11] There is no dispute about the second element in this case: Bilomba has proven beyond a reasonable doubt that Jack Barrett, Creative Cresting and Aaron Barrett had actual knowledge of the interlocutory injunction order of Justice Coughlan. These Defendants have been represented by counsel throughout the proceedings. Through counsel, they consented to the form of the order. The issued order was sent to their counsel on March 14, 2025 and received.

***Acted or Failed to Act Intentionally***

[12] With respect to the third element, that the defendant intentionally did the act that the order prohibits or intentionally failed to do the act that the order compels, the required intention relates to the act that is prohibited by the order, not to disobedience of the order: *TG Industries Ltd. v. Williams*, 2001 NSCA 105 at para.17. The intention to disobey, in the sense of desiring or knowingly choosing to disobey the order, is not an essential element of civil contempt: *ibid.*

***Discretion***

[13] Even where all three elements have been established beyond a reasonable doubt, a judge retains a discretion to not make a finding of contempt. As stated by Justice Cromwell:

[36] The contempt power is discretionary and courts have consistently discouraged its routine use to obtain compliance with court orders . . . If contempt is found too easily, "a court's outrage might be treated as just so much bluster that might ultimately cheapen the role and authority of the very judicial power it seeks to protect" . . . As this Court has affirmed, "contempt of court cannot be reduced to a mere means of enforcing judgments. . . **Rather, it should be used "cautiously and with great restraint"** . . . It is an enforcement power of last rather than first resort.

[37] For example, where an alleged contemnor acted in good faith in taking reasonable steps to comply with the order, the judge entertaining a contempt motion generally retains some discretion to decline to make a finding of contempt. . . While I prefer not to delineate the full scope of this discretion, given that the issue was not argued before us, **I wish to leave open the possibility that a judge may properly exercise his or her discretion to decline to impose a contempt finding where it would work an injustice in the circumstances of the case.**

[Emphasis added; citations omitted; see also *A.M.G.* at para.68]

### **Paragraph 1: The Non-Competition Clause**

[14] Paragraph 1 of the Order, the Non-Competition Clause, reads as follows:

1. John Barrett, 333 NSL, and Creative Cresting, are hereby enjoined and restrained from:
  - i) Directly or indirectly operating, carrying on, being engaged in, being concerned with, being or interested in, advising, lending money to, guaranteeing the debts or obligations of, or permitting the Defendants' names or any part thereof to be used or employed in operating or granting anyone else the right to operate any "Competing Business", as defined in the Franchise Agreements (the "Franchise Agreements") between the parties to the within litigation dated January 15, 2020, and October 25, 2021, located within two-hundred (200) kilometer radius of the premises located At 109 Illsley Avenue, Dartmouth, Nova Scotia or within a one-hundred (100) kilometre radius of any other franchise or corporation using the trademark, "Fully Promoted"; and
  - ii) Without limiting the generality of the preceding paragraph, John Barrett, 333 NSL, and Creative Cresting, are hereby enjoined and restrained from carrying on, being engaged in, being concerned with, being or interested in, advising, lending money to, guaranteeing the debts or obligations of, or permitting their respective names or any part thereof to be used or employed in operating or granting anyone else the right to operate the business presently known as "Creative Cresting".

[15] Pursuant to paragraph 7 of the Order, paragraph 1 of the Order was to be in effect until November 9, 2025.

*Clear and Unequivocal*

[16] Bilomba has proven beyond a reasonable doubt that paragraph 1 of the Order is clear and unequivocal. Jack Barrett and Creative Cresting were prohibited from carrying on or being engaged in the business known as Creative Cresting.

*Acted Intentionally*

*Jack Barrett and Creative Cresting*

[17] Bilomba has proven beyond a reasonable doubt that Jack Barrett and Creative Cresting intentionally carried on and engaged in the business known as Creative Cresting, in breach of paragraph 1 of the order:

- (a) In or around June of 2025, Bilomba retained Xpera to investigate whether the Defendants continued to operate Creative Cresting despite the terms of the order.
- (b) On July 16, 2025, Ms. Osborne of Xpera placed a call to 902-406-0398, a number associated with Creative Cresting.

- (c) Ms. Osborne’s call was answered by an individual who identified himself as “JB.”
- (d) “JB” instructed Ms. Osborne to send an email to sales@creativecreasting.ca, and invited Ms. Osborne to attend the storefront of Creative Cresting, which he advised was currently open by appointment only.
- (e) Later on July 16, 2025, Ms. Osborne sent an email to sales@creativecreasting.ca.
- (f) On July 18, 2025, Ms. Osborne’s email was answered by Aaron Barrett, whose signature line listed him as CEO of Creative Cresting. Aaron Barrett set a time for them to meet at the showroom of Creative Cresting after 10:00 a.m. on Monday, July 21, 2025.
- (g) As of July 16, 2025, the Registry of Joint Stocks listed Aaron Barrett as the sole Director and Officer of Creative Cresting.
- (h) On the morning of Monday, July 21, 2025, Mr. Lessard of Xpera attended the Creative Cresting storefront and took video of a person he knows is Jack Barrett (and who Mr. Sandeela identifies as Jack Barrett) conducting activities at the Creative Cresting storefront in

Lower Sackville, Nova Scotia, which is within the non-competition radius.

- (i) In his Affidavit sworn on November 27, 2025 Jack Barrett admitted as follows in his affidavit filed in response to the contempt motion:

“I acknowledge that I did meet with a potential client as set out in the Plaintiff’s submissions. I did so because I, and my family, were and are experiencing significant financial hardship. I did this out of financial desperation.”

*Aaron Barrett*

[18] Bilomba has failed to prove beyond a reasonable doubt that Aaron Barrett was in breach of the paragraph 1 of the order. Paragraph 1 of the Order does not apply to Aaron Barrett.

**Paragraph 3 of the Order: Advising or Counselling**

[19] During oral submissions, Bilomba relied on paragraph 3 of the Order to allege contempt on the part of Aaron Barrett.

[20] Paragraph 3 of the Order states that “[t]he Defendants are hereby enjoined from advising or counselling any person to act on their behalf or otherwise aid them in breaching the terms of the within Order.”

*Clear and Unequivocal*

[21] Bilomba has failed to prove beyond a reasonable doubt that the language of paragraph 3 of the Order clearly and unequivocally prohibits Aaron Barrett from assisting the other Defendants to breach paragraph 1 the Order. Paragraph 3 of the Order appears to prohibit the Defendants from advising or counselling third parties to act on the Defendants' behalf or otherwise aid them in breaching the terms of the Order.

### **Paragraphs 4-6 of the Order: The Requirement to Return Items**

[22] Paragraphs 4 to 6 of the Order, which require John Barrett and Creative Cresting to return, transfer or assign certain things, provide as follows:

4. The Defendants John Barrett, 333 NSL, and Creative Cresting Must return to the Plaintiff the Operating Manual, and all other Proprietary Information and confidential materials, including without limitation all customer lists or client lists, equipment and other property, and shall not retain any copy thereof, as required by Article 17.01(c) of the Franchise Agreements, which for greater certainty are the following:
  - The *client list* which belonged to the Plaintiff and which was sold by John Barrett and/or 333 NSL to Creative Cresting in or about November 2023;
  - The *phone number* which was used by the Defendants John Barrett and 333 NSL during the life of the Franchise Agreements for the Halifax and/or Dartmouth Fully Promoted franchisees;
  - ...
  - Any *Internet domain name* that uses Fully Promoted; and
  - The *Google Business Page* which was used by the Defendants John Barrett and 333 NSL during the life of the Franchise Agreements for the Halifax and/or Dartmouth Fully Promoted franchises;
5. The Defendants John Barrett, 333 NSL, and Creative Cresting must transfer and assign to the Plaintiff, or disconnect and forward, all *telephone* and fax *numbers*, white page telephone references, and all trade and similar name registrations and

business licenses, and to cancel any interest that they may have in “Fully Promoted”, as required by Article 17.01(d) of the Franchise Agreements;

6. The Defendants John Barrett, 333 NSL, and Creative Cresting must assign all right, title and interest in any ***Internet and website home pages***, Network Media Sites, domain listings, e-mail addresses, and registrations that contain any of the “Fully Promoted” trademarks, as required by Article 17.01(e) of the Franchise Agreements, which includes the ***Google Business Page*** transferred from the Defendant 333 NSL to the Defendant Creative Cresting;

[Emphasis added]

### ***Client List***

#### *Clear and Unequivocal*

[23] Bilomba has proven beyond a reasonable doubt that paragraph 4 of the order is clear and unequivocal with respect to the requirement to return the client list.

#### *Intentionally Failed to Act*

[24] Bilomba has proven beyond a reasonable doubt that Jack Barrett and Creative Cresting intentionally failed to do the act that the order compels.

[25] Jack Barrett destroyed the client list. He did not return it to Bilomba. In his Statutory Declaration filed on August 20, 2025, Jack Barrett admitted that he “disposed of and retained no copies of the client list ...”

[26] Aaron Barrett, the Director and Officer of Creative Cresting, admitted as follows in his Affidavit sworn on August 20, 2025: “I have disposed of and retain no copies of the Fully Promoted client list.”

[27] Mr. Sandeela confirmed in his Affidavit sworn on November 12, 2025 that a copy of the client list has not been returned to Bilomba.

### *Phone Numbers*

#### *Intentionally Failed to Act*

[28] Bilomba has failed to prove, beyond a reasonable doubt, that Jack Barrett and Creative Cresting intentionally failed to return, transfer, assign or forward the phone numbers.

[29] In his affidavit sworn on November 12, 2025, Mr. Sandeela states at para.12 that the Defendants have not returned any phone numbers that were used by their Fully Promoted franchises to Bilomba, and at para. 16 of the affidavit, Mr. Sandeela confirms that the Defendants have not assigned or forwarded the phone numbers. At para.13 of the affidavit, Mr. Sandeela states as follows:

In my experience, phone lines have routinely been transferred when ownership of a business changes. I am unaware of any issues Bilomba has ever had in the past with such transfers of phone numbers, including when the phone number was transferred to me upon my purchase of Bilomba from my predecessor. Based on my experience dealing with previous phone number transfers from one person or

company to another, it is certainly possible to do and I am unaware of the basis for which the Defendants allege it is not.

[30] In his Affidavit sworn on August 20, 2025, Aaron Barrett, the Director and Officer of Creative Cresting, confirmed that he “relinquished the former Creative Cresting phone number back to the provider Eastlink.” However, Aaron Barrett went on to rely on what Eastlink representatives informed him. I do not rely on what Eastlink representatives said for the proof of the truth of those statements. However, I accept Aaron Barrett’s unchallenged evidence that he was told and understood the following from Eastlink representatives:

5. ... Eastlink representatives have informed me, which I verily believe it to be true, that:
  - a. porting the phone number to the owner of a different business is not possible;
  - b. that the relinquished phone number will return to the provider’s inventory and be publicly available 90 days after the number was relinquished by me; and
  - c. that anyone will be able to request use of the relinquished phone number once it is publicly available.

[31] In light of what Aaron Barrett was told by Eastlink representatives, and what he understood from them, I am left with a reasonable doubt as to whether Creative Cresting intentionally failed to return, transfer, assign or forward the phone numbers to Bilomba.

[32] In his Statutory Declaration, Jack Barrett stated at para.3 that he discontinued use of and cancelled the telephone numbers which were in use by him

during the life of the Franchise Agreements for the Halifax and/or Dartmouth Fully Promoted franchises. Unlike Aaron Barrett, he did not provide an explanation for failing to return the phone numbers to Bilomba. However, the evidence of Aaron Barrett about what Eastlink told him leaves me with a reasonable doubt as to whether Jack Barrett intentionally failed to return, transfer, assign or forward the phone numbers to Bilomba.

### ***Google Business Page***

#### *Intentionally Failed to Act*

[33] Bilomba has failed to prove, beyond a reasonable doubt, that Jack Barrett and Creative Cresting intentionally failed to return, transfer or assign the Google Business Page.

[34] At para. 14 of his November 12, 2025 affidavit, Mr. Sandeela confirms that the Defendants have failed to return the Google Business Page that was used by their Fully Promoted franchises and by Creative Cresting to Bilomba. Mr. Sandeela states as follows at para.15 of the affidavit:

From my experience dealing with the transferability of Google Business pages in the past, I am aware that the transfer will require the Defendants, or whichever of them currently controls the Google Business Page, to initiate the transfer with Google and provide to Bilomba a unique code Google assigns, which would then allow Bilomba to complete the transfer. I do not know whether Google would ultimately accede to the request, but to the best of my knowledge, information and

belief the Defendants have not attempted to initiate or complete any transfer process.

[35] I am left with a reasonable doubt by Mr. Sandeela's evidence that Jack Barrett and/or Creative Cresting intentionally failed to return, transfer or assign the Google Business Page because Mr. Sandeela's evidence leaves me with a doubt as to whether Google would agree to a request made by Jack Barrett or Creative Cresting to transfer the Google Business Page.

***Client Artwork***

*Clear and Unequivocal*

[36] Bilomba has satisfied me beyond a reasonable doubt that paragraph 4 of the Order clearly and unequivocally required Jack Barrett and Creative Cresting to return to Bilomba all confidential materials. This would clearly include any client artwork.

*Intentionally Failed to Act*

[37] Bilomba has not satisfied me beyond a reasonable doubt that Jack Barrett and Creative Cresting intentionally failed to return client artwork to Bilomba.

[38] In Mr. Sandeela's affidavit sworn on November 12, 2025, he states as follows:

17. In addition, the Defendants have not returned certain other Proprietary Information, as defined in the subject franchise agreements, to Bilomba. This includes the proprietary artwork supplied by clients of Fully Promoted to the Defendants while operating under the Fully Promoted brand. The client artwork is provided when orders are placed, to indicate the designs the clients require for their final branded products.

18. The database of client artwork is among the most important proprietary information in the Defendants' possession, as access to the client's artwork enables the efficient conduct of business with that client. Upon termination of any franchise agreement, Bilomba requires the surrender of all client artwork back to the franchisor to enable an orderly transition for the client to another franchisee within the Fully Promoted network.

[39] However, in Jack Barrett's affidavit sworn on December 18, 2025, he states that "all digital artwork belonging to the clients of the Franchises that was received from either the clients or third-party digitizing companies is on the Fully Promoted email server" and that "[t]hese emails are now in the possession of Fully Promoted Canada and out of my reach": para.9. Jack Barrett goes on to say that he lost access to the client artwork and these emails when he was locked out of the Fully Promoted email server temporarily in September of 2023 and permanently in November of 2023. Jack Barrett was not cross-examined.

[40] Based on the evidence of Jack Barrett, I am left with a reasonable doubt as to whether Jack Barrett or Creative Cresting intentionally failed to return client artwork to Bilomba.

## Conclusion

[41] In conclusion, Bilomba has proven beyond a reasonable doubt that the Defendants John (Jack) Barrett and Creative Cresting: (a) engaged in and carried on the business of Creative Cresting in breach of the non-competition provision in paragraph 1 of the Interlocutory Injunction Order, and (b) failed to return the client list to Bilomba, in breach of paragraph 4 of the Order.

[42] I exercise my discretion to make a finding of contempt against Jack Barrett and Creative Cresting for these breaches. This is not a situation where these Defendants acted in good faith in taking reasonable steps to comply with the Order. It would not work an injustice in the circumstances of this case to make a finding of contempt against these Defendants. The fair and proper administration of justice relies upon respect for and obedience of court orders: see *McLean v. Sleigh*, 2019 NSCA 71 at para.77.

[43] Bilomba has failed to establish beyond a reasonable doubt that the Defendants were in any other way in contempt of the Order.

[44] The motion for a contempt order against Aaron Barrett is dismissed.

[45] Counsel are asked to contact the court to schedule a telephone conference with this judge to discuss the scheduling of the penalty phase of this proceeding.

Gatchalian, J.