

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-17-131846-241

DATE: February 17, 2026

PRESIDED BY: THE HONOURABLE SILVANA CONTE, J.S.C.

DR. GINA PALOMBO
Plaintiff

v.

LEO FUOCO
Defendant

and

CYNTHIA JEANNOT et al.
Impleaded Parties

CORRECTED JUDGMENT

[1] Plaintiff is seeking a declaration of contempt of court further to Defendant's non-compliance with several orders issued by the Court since November 5, 2024.

[2] Defendant represented himself at the hearing and he was advised that he could not be compelled to testify but if he chose to file into evidence his sworn statement emailed to the Court, he would be required to subject himself to a cross-examination which would be used against him. Defendant decided to call Carlo Bossio as his only witness in defense. Defendant then left the courtroom before the oral argument.

[3] While the decision was under advisement, Defendant sought and obtained permission, on February 16, 2026, to reopen the hearing and file a copy of his

Opposition to the probate of the last will and testament of the late Carmela Zanti Bossio, dated February 13, 2026, in Court file 500-14-001107-259, which he argued illustrates her absence of interest or capacity to institute the present action.

[4] As is more detailed below, the Court finds Defendant guilty of contempt of court for the failure to remit to Plaintiff's attorney the rent collected for the months of September, October and November 2024 as ordered by the Court in the provisional injunction rendered on November 5, 2024, and renewed thereafter.

[5] A sanction hearing will be scheduled before the undersigned.

Facts

[6] On October 29, 2024, Plaintiff instituted an action for interlocutory and permanent injunction and damages against Defendant further to the termination of Defendant's mandate to manage eight residential apartments owned by Carmela Zanti Bossio, the Plaintiff's mother.

[7] On November 5, 2024, Plaintiff sought and obtained as part of a case management order, a judgment that Defendant¹:

- 7.1. Communicate to Plaintiff copies of the eight (8) leases for the rental units in question; and
- 7.2. Render an accounting of all rent collected from September 2024 to November 2024.

[8] Defendant was present and later was served with the order.

[9] On November 7, 2024, Defendant sought leave to appeal this judgment arguing essentially the illegality of the power of attorney to Plaintiff. On February 13, 2025, the Court of Appeal dismissed the appeal and the request to stay the injunctive order².

[10] Defendant did not comply with the order.

[11] On November 19, 2024, a provisional order of injunction was rendered as Defendant continued to hold himself out as the authorized mandatary for Plaintiff's mother, the whole as appears from a letter to tenants dated October 20, 2024, advising them to pay Defendant and not Plaintiff³.

[12] The November 19, 2024 provisional injunction held as follows⁴:

- 12.1. **ORDERS** Defendant to remit and pay to the attorneys for Plaintiff, in trust,

¹ Exhibit R-4.

² *Fuoco v. Palombo Bossio*, 2025 QCCA 162 (CanLII); Exhibit R-6.

³ Exhibit R-26.

⁴ Exhibit R-7.

payable to the order of Michael R. Concister in trust for the immediate benefit Carmela Zanti Bossio the total sum of the rents collected by Defendant in connection with the rental properties owned by Mrs. Zanti Bossie (Rental Units), without deduction or holdback, by certified cheque or bank draft by delivery of the said payment to the attention of Mtre. Michael R. Concister at his offices located at 1310 Greene Ave., Suite 300, Westmount Quebec H3Z 282 no later than 5 pm, December 17, 2024:

12.2. ENJOINS Defendant from receiving or otherwise collecting any rents from the tenants of the Rental Units;

12.3. ENJOINS Defendant from holding himself out or otherwise representing to any of the tenants of the Rental Units, or anyone that might wish to become a tenant of the Rental Units, that he acts for or on behalf of the owner of the Rental Units or that he has any right to collect any rent owing, either for the past that may be owing or that may become due, for any of the Rental Units or to offer or grant a lease for any of the Rental Units;

[13] Defendant was present and contested the provisional injunction. He argued that he was entitled to collect the rent as the power of attorney was illegal and that he was holding onto the monies to prevent the Plaintiff from diverting the funds for her own use⁵.

[14] Defendant was served with the order and did not comply with the order to remit the rent collected.

[15] On December 3, 2024, the injunctive order was renewed, and Defendant again was present to contest same. He again alleged that he was doing the right thing and would not stop⁶.

[16] In November and December 2024, Carlo Bossio, a good friend of Defendant and Plaintiff's cousin, encouraged the tenants to seek a determination as to whom rent was to be paid before the Tribunal Administrative du Lodgement (TAL). He sent Plaintiff's attorney copies of the applications filed before the TAL using Defendant's fax machine.

[17] As a result, the tenants withheld rent after November 2024 until a judgment was rendered in April 2025 which dismissed the applications on the basis that it was clear that the rent was to be paid to the owner's duly authorized representative⁷.

[18] Plaintiff argues that this was an attempt by Defendant to prevent Plaintiff from collecting the rent in contravention of the injunction.

⁵ Exhibit R-7 par 9.

⁶ Exhibit R-8, par 12-13.

⁷ Exhibits R-21 and R-22; *Luck v. Zanti*, 2025 QCTAL 13170 (CanLII); *Joseph v. Zanti*, 2025 QCTAL 13168 (CanLII).

[19] Plaintiff renewed the provisional injunction order on renewed thereafter on December 3, 2024, December 12, 2024 (rectified December 16), December 20, 2024, January 8, 2025, January 17, 2025, February 3, 2025, until February 12, 2024, and extended the delay to comply to February 22, 2025⁸.

[20] Defendant was notified a copy of each order but did not comply with the order to remit the rent collected.

[21] On January 6, 2025, Defendant was served with a subpoena *duces tecum* for attendance at Court for his examination on discovery on January 21, 2025, at 9:30 am in room 1.110 of the Montreal Courthouse situated at 1, Notre-Dame Street East, Montreal, Quebec.

[22] On January 21, 2025, Defendant failed to appear or communicate the documents requested in the *duces tecum*, including, the copies of the eight leases⁹.

[23] On the morning of January 21, 2025, Defendant served Plaintiff with a Motion to quash the subpoena. The Motion was never filed or presented to the Court.

[24] The Application for the issuance of a Contempt of Court summons is dated February 26, 2025.

[25] On June 12, 2025, Defendant entered a not guilty plea and raised Plaintiff's lack of interest to act for the late Carmela Zanti Bossio.

Analysis

[26] The Court will first examine the Defendant's argument regarding Plaintiff's interest to sue on behalf of the late Carmela Zanti Bossio and then examine the Contempt of Court charges.

(i) Interest

[27] Article 85 *Code of Civil Procedure* (CCP), states that except where specifically provided for by law, the general legal rule is that, to be sufficient, the interest must be direct and personal, among other things¹⁰.

[28] Article 1316 of the *Civil Code of Quebec* (CCQ) and article 89 CCP dealing with administrators and tutors provide an exception to the rule that one cannot act in the name of a third person¹¹.

⁸ Exhibits R-9, R-10, R-12 to R-15.

⁹ Exhibit R-16.

¹⁰ Brunette v. Legault Joly Thiffault, s.e.n.c.r.l., 2018 SCC 55 (CanLII), [2018] 3 SCR 481 at para 16.

¹¹ C.C. v. M.C., 2011 QCCA 1235 (CanLII) at para 17; Gagné v. Dion-Simard, 2007 QCCA 286 (CanLII), at para 18;

[29] In the present case, Plaintiff has demonstrated sufficient interest.

[30] Plaintiff instituted the action on October 29, 2024, in her capacity as an administrator to the estate of the then Carmela Zanti Bossio, who died in March 2025 according to Defendant's Opposition¹².

[31] At that time and when the judgments forming the basis of the contempt proceedings were rendered, between November 5, 2024 and February 12, 2025, Plaintiff was acting under a power of attorney executed before a notary public on August 20, 2024¹³.

[32] Indeed, Justice Gaudet recognized her capacity to act for another in his decision dated February 12, 2025, renewing the provisional injunction¹⁴.

[33] The Court will now examine the merits of the contempt of court proceedings.

(ii) Contempt of Court

[34] Contempt of court in civil matters is intended to punish and dissuade persons from breaching court orders, thereby fostering respect for the administration of justice¹⁵. It is a quasi-criminal offence and, as such, is "an exceptional proceeding to which courts should use "sparingly" and as a "last resort" ¹⁶.

[35] The complainant must establish, beyond a reasonable doubt, that the party alleged to have breached the order had knowledge of the order, breached it (*actus reus*) and intent, knowledge or recklessness as to the fact that the public disobedience of the order will tend to depreciate the authority of the court (*mens rea*)¹⁷. There is no requirement that proof be made that the person intended to interfere with the administration of justice¹⁸.

[36] Where the complainant has met its burden, the Court has the residual discretion not to convict. The Court of Appeal held as follows in *Centre commercial Les Rivières Itée v. Jean Bleu inc.*¹⁹:

[67] Viewing contempt as a last resort where there is an alternative remedy, better-tailored to the context, has the further advantage of reserving contempt for those cases of egregious behaviour that genuinely threaten the authority of the

¹² Exhibit I-8.

¹³ Exhibit P-2.

¹⁴ Exhibit R-15.

¹⁵ *Lacroix v. Autorité des marchés financiers*, 2020 QCCA 873 (CanLII), at para 33.

¹⁶ Articles 58 C.C.P. et Seq.

¹⁷ *Carey v. Laiken*, 2015 SCC 17, [2015] 2 S.C.R. 79 at paras 32-35; *Videotron Ltée v. Industries Microlec Produits Électroniques Inc.*, 1992 CanLII 29 (SCC), [1992] 2 S.C.R. 1065; *Morasse v. Nadeau-Dubois*, 2016 SCC 44, [2016] 2 S.C.R. 232.

¹⁸ *Carey v. Laiken*, *supra*, at para 29.

¹⁹ *Centre commercial Les Rivières Itée v. Jean bleu inc.*, 2012 QCCA 1663 (CanLII) at paras 67-68.

courts and merit the strong medicine of the quasi-criminal contempt sanction. This Court has rightly warned against the notion of contempt being debased if used where more suitable remedies exist. The problem of trivializing the seriousness of contempt through inappropriate or overzealous use – the risk of contempt becoming “galvaudé” – was highlighted by the Law Reform Commission of Canada which noted that “[t]here is a very serious danger that contempt might eventually turn against those using it, and in the final analysis, involving it too frequently might do more harm than good in the interests of justice”.

[68] I am inclined, at least on the basis of the facts of the present case, to see the exhaustion of other remedies less as a formal rule of law and more as a reflection of the proper exercise of judicial discretion undertaken pursuant to article 49 C.C.P. Indeed, the discretionary and contextual character of a contempt order would suggest that exhausting remedies is best viewed as a sound judicial policy rather than as an unbending legal rule. A judge seized of a motion for contempt should inquire first whether there are other available remedies suitable for redressing a party’s disobedience of a court order, reserving punitive measures of contempt for quasi-criminal conduct that meaningfully impugns the authority of the courts. While exhausting remedies may not be required as a precondition to contempt in all cases, judges should inquire whether alternative remedies to contempt exist in their evaluation of the proportionality between, on the one hand, the quasi-criminal sanctions for contempt and, on the other, the seriousness of the contemnor’s conduct and intent

[37] The sanctions for contempt are limited to those contained in article 62 C., that is, a fine not exceeding \$10, 000 in the case of a physical person and community service. The severity of the sanction must be proportional to the gravity of the contempt²⁰. In the specific case where the person refuses to comply with the court order or injunction, pursuant to the last paragraph of article 62 CCP, the Court may exceptionally order imprisonment until the order is complied with and for a maximum of one year. The Court of Appeal has held that the main criteria for issuing a coercive order of imprisonment for civil contempt are “necessity and proportionality”²¹.

[38] Plaintiff has asked to bifurcate the hearing and proceed on the sanctions only after a finding of contempt of court.

[39] The orders which are the subject matter of the contempt charges can be grouped as follows:

39.1. The first group pertains to the case management order to communicate to Plaintiff the leases for the rental properties and to render an account for the September to November 2024 rents collected.

²⁰ *Chamandy v. Chartier*, 2015 QCCA 1142.

²¹ *Lacroix v. Autorité des marchés financiers*, supra, note 14 at para 73-74.

39.2. The second group pertains to the provisional injunctive orders to: (1) remit the rent collected: (2) cease holding himself out as the mandatary for the owner, the late Carmella Zanti Bossio and, (3) cease collecting the rent.

39.3. The third group pertains to the failure to submit to the examination on discovery and communicate the documents despite being served with a subpoena *duces tecum*.

1. Case Management Order

[40] The terms of the order are clear²².

[41] The order was issued in the context of case management and in advance of the hearing of the provisional interlocutory injunction.

[42] Defendant was present when the order was rendered, and he was also served with the judgment.

[43] Defendant did not comply with the order with knowledge that he was acting in contravention of the order.

[44] Therefore, the substantial requirements for contempt have been met. However, the Court in its discretion finds that as Plaintiff had other recourses available to him and in fact, exercised these other recourses, such that, the order of contempt is not appropriate in the circumstances²³.

[45] The evidence is that Plaintiff obtained an order on November 19, 2024, that Defendant remit the rents collected for the months of September, October and November 2024, such that a rendering of account for those months was no longer necessary. In addition, at the hearing, the tenants testified that they provided Plaintiff with a copy of their leases and/or provided same when they filed their claim before the TAL.

2. Provisional Injunction

[46] The terms of the three orders for provisional injunction first rendered on November 19, 2024, and renewed thereafter which remained in effect until February 22, 2025, are clear²⁴.

[47] Defendant had knowledge of the orders as he was present for many of the orders and received service of all orders.

²² Exhibit R-4.

²³ *Centre commercial Les Rivières Itée, supra*, note 18.

²⁴ Exhibit R-7 to R-10, R-12 to R-15.

[48] The evidence does not show, beyond a reasonable doubt, that, after November 5, 2024, Defendant held himself out as the owner's representative, collected the rent, or encouraged the tenants to withhold the rent after November 2024.

[49] While the tenants' applications to the TAL were faxed either by Mr. Fuoco or from his residence, all three tenants called by Plaintiff to testify at trial²⁵ maintained that Mr. Fuoco was not involved. It appears that they spoke with Carlo Bossio and another tenant. The tenants claimed they were concerned that they may be held to pay twice if the matter of who is entitled to collect the rent was not clarified by the TAL given the litigation between Mr. Fuoco and Plaintiff.

[50] As regards the injunctive orders to remit the rent collected to Plaintiff, Plaintiff has established that Defendant did not remit the rent collected for the months of September, October, and November 2024 to Plaintiff's attorneys.

[51] While Defendant called Carlo Bossio to testify at the hearing to argue that, on November 3, 2024, the leases and 21 envelopes containing the rent were remitted to Johnny Bossio²⁶, the Court does not retain his testimony.

[52] First, he was not a credible witness. His testimony appeared to be staged with Defendant who was prompting him with leading questions.

[53] Second, Carlo Bossio's testimony is contradicted by Defendant's own representations in Court, after the date he allegedly remitted the rent to Johnny Bossio, that he was withholding the rent to protect the late Carmella Zanti Bossio's interests to avoid Plaintiff from diverting the funds for her own use²⁷, "doing the right thing"²⁸, and would "continue to do so"²⁹.

[54] Third, Plaintiff's attorney Mtre. Michael R. Concister testified that at no time since November 5, 2024, and up until the eve of the hearing on the contempt charges on February 3, 2026, was he advised that the leases and rent were provided to Johnny Bossio nor provided with the receipt allegedly signed by Johnny Bossio on November 3, 2024, and filed at trial.

[55] Mtre Concister testified that he spoke with Johnny Bossio over the years and at no time did Johnny Bossio state that he had received the rent collected by Defendant.

[56] Finally, Defendant served Johnny Bossio with a subpoena to appear at trial, but he did not call him as a witness to testify, even though the option to testify virtually was

²⁵ Alerte Joseph, Darius Luck, Stephanie Debrosse.

²⁶ Exhibit I-5.

²⁷ Exhibit R-7 at paragraph 9; Exhibit R-8 at paragraph 19.

²⁸ Exhibit R-8, at paragraph 12.

²⁹ Exhibit R-8 at paragraph 13.

available. The Court draws an adverse inference from the failure to call Johnny Bossio as a witness to testify as to the veracity of the November 3, 2024, receipt³⁰.

[57] The Court finds, beyond a reasonable doubt, that Defendant had knowledge of the order to remit the months of months of September, October and November 2024 to Plaintiff's attorney, and that he breached the order (*actus reus*) and did so knowingly and willingly (*mens rea*)³¹.

3. Subpoena *duces tecum*

[58] The subpoena *duces tecum* was served on Defendant on January 6, 2025.

[59] Defendant did not appear to testify but served Plaintiff with a motion to quash that same morning. Plaintiff registered his default unaware of the service of the motion to quash. However, the motion to quash was not filed into the Court record such that it was never heard.

[60] Contempt of court is not the appropriate recourse for the failure to appear for an examination. Plaintiff must first exhaust all other remedies. In this case, Plaintiff's recourse was to compel Defendant to testify under an order of the Court pursuant to article 284 CCP, assuming Plaintiff advanced all reasonable fees with the subpoena.³² The refusal to answer questions without valid reasons or provide relevant documents during the examination could then give rise to contempt of court under article 288 CCP³³.

FOR THESE REASONS, THE COURT:

[61] **ACQUITS** Defendant of the failure to respect the safeguard order rendered November 5, 2024 (Accusations 1 and 2);

[62] **ACQUITS** Defendant of having held himself out as the owner's representative, collected the rent, or encouraged the tenants to withhold the rent after November 19, 2024 (Accusation 9);

[63] **ACQUITS** Defendant of the failure to appear at the examination on discovery on January 21, 2025, and communicate to Plaintiff the documents listed in the *duces tecum* (Accusation 10);

[64] **DECLARES** Defendant guilty of the failure to remit to the attorneys for Plaintiff, in trust, payable to the order of Mtre Michael R. Concister in trust the rent collected for the

³⁰ *R. v. Jolivet*, 2000 SCC 29 (CanLII), [2000] 1 S.C.R. 751, [2000] S.C.J. No. 28, at para. 25.

³¹ *Carey v. Laiken*, *supra*, note 16, at paras 32-35.

³² *E. Rollin Compagnie ltée v. Batik Construction inc.*, 2021 QCCS 5186 (CanLII); FERLAND et Benoît EMERY, *Précis de procédure civile du Québec*, 6e éd., vol. 2, Cowansville, Éditions Yvon Blais, 2020, par. 2-2360-2-2361.

³³ *Bouday*, 2025 QCCS 2889 (CanLII).

months of September, October and November 2024, as ordered by the Court on November 19, 2024 and renewed thereafter on December 3, 2024, December 12, 2024, December 20, 2024, January 8, 2025, January 17, 2025, February 3, 2025, until February 12, 2024 (Accusations 3 to 8 inclusive);

[65] **SUMMONS** the parties on March 6, 2026, in room 2.08 at 9 a.m. to schedule the hearing on the sentencing in person or virtually through Teams;

[66] **THE WHOLE**, with legal costs against the Defendant.

SILVANA CONTE, J.S.C.

Me Darren G. Henriet
Attorney for Plaintiff

Leo Fuoco
Defendant

Dates of hearing: February 6 and 16, 2026.