

Court of King's Bench of Alberta

Citation: Remmington v RBC Direct Investing Inc, 2026 ABKB 341

Date: 20260504
Docket: 2301 16294
Registry: Calgary

Between:

Stephen George Arthur Remmington

Plaintiff

- and -

RBC Direct Investing Inc.

Defendant

**Memorandum of Decision
of the
Honourable Justice M.R. Gaston**

[1] The Plaintiff, Stephen Remmington, seeks an order of this Court finding the Defendant, RBC Direct Investing Inc., (“RBC”), in contempt of court for failing to comply with an Order of Applications Judge Mattis. The Plaintiff also seeks an order compelling RBC to disclose their records referencing the liquidation of the Plaintiff shares of Landmark Infrastructure Partners LP (“Landmark”) and records regarding complaints made by the Plaintiff to RBC in April and May of 2022.

Background

[2] The Plaintiff, using RBC’s self-directed online trading platform, made a purchase of Landmark shares. Landmark was subsequently involved in a corporate acquisition transaction which resulted in the Plaintiff receiving approximately \$644,000 into his RBC trading account.

[3] RBC recorded the Landmark transaction on the Plaintiff’s 2021 issued tax documents as “dividend income” and not as “capital gains”, thereby exposing the Plaintiff to tax consequences

arising from the transaction. Specifically, CRA reassessed the Plaintiff based on the incorrect information on the RBC-issued documentation, resulting in a large tax penalty owed by the Plaintiff.

[4] The Plaintiff filed a statement of claim against RBC seeking that it correct his RBC-issued tax documents and assist the Plaintiff with his reassessment dispute with the CRA. He also seeks compensatory damages for the time and effort he expended to deal with the erroneous document, costs, and punitive damages.

[5] In April 2024, the Plaintiff filed an application to compel certain production from RBC.

[6] Plaintiff Request #7 was one of the disputed items before Applications Judge Mattis. In response to RBC's declaration that it did not have particular records sought by the Plaintiff, he responded: "It is not plausible that 39,031 shares of Landmark Infrastructure Partners LP were removed from my account without some form of communication or order. Please provide the associated records."

[7] Applications Judge Mattis issued an order on May 15, 2024 in respect of the Plaintiff's production requests, including that RBC provide the Plaintiff with "all records that are related to" Plaintiff Request #7.

[8] RBC appears to have provided a response to Plaintiff Request #7 on September 27, 2024, attaching a document appended to a chart describing each of the Plaintiff's requests and RBC's responses and associated production.

[9] The Plaintiff responded to RBC on September 30, 2024, seeking a sworn Supplemental Affidavit of Records that included all of RBC's produced response documents and, on October 4, 2024 wrote seeking that RBC "ensure inclusion of all records bearing any information regarding the removal of my shares of Landmark Infrastructure Partners LP from my account as so required by the Order. Any exclusions will guarantee further action."

[10] The Plaintiff advised at the hearing of this application that he seeks production of certain metadata he understands would have been transmitted between various of the trading platforms regarding the removal of the Landmark shares from his account, notwithstanding that such information may not be otherwise represented by way of an easily identifiable electronic record such as an email or memo.

[11] Notably, there does not appear to be any dispute regarding the fact or timing of the removal of the Landmark shares from the Plaintiff's account.

[12] Of particular note is that, in January 2025, RBC did reissue the Plaintiff's tax document as he sought in his Statement of Claim. In July 2025, the Plaintiff was successful in his tax reassessment dispute with the CRA, supported by the corrected RBC tax documents.

[13] Notwithstanding that the primary relief sought in his Statement of Claim has been provided, the Plaintiff seeks to continue the claim, seeking penalties and damages from RBC.

Law

[14] Civil contempt is a remedy available pursuant to Rules 10.51 – 10.53 of the Alberta *Rules of Court*. The general goal of civil contempt is to enforce compliance with court orders.

[15] Civil contempt is quasi-criminal in nature: *Pro Swing v ELTA Golf*, 2006 SCC 52 at para 36. The Applicant must prove beyond a reasonable doubt that: 1) the order breached unequivocally states what must be done or not done; 2) the contemnor had actual knowledge of the order; and 3) the contemnor intentionally did, or did not do, what the order unequivocally requires: *Carey v Laiken*, 2015 SCC 17 at para 32-35.

[16] Exercising the contempt power is discretionary, and ought to be used “cautiously and with great restraint ... It is an enforcement power of last rather than first resort”: *Carey* at para 38.

[17] Courts have recognized many reasons for not exercising discretion to find a party in contempt including considering, *inter alia*:

- that a party acted in good faith in taking reasonable steps to comply with the order;
- whether an alternate remedy could adequately address the conduct;
- whether the conduct was the sort of egregious behaviour that threatens the authority of the court meriting sanctions;
- whether a contempt order may exacerbate a high conflict situation;
- whether it is in the best interests of justice to make a formal contempt order.

Questor Technology Inc v Stagg, 2025 ABCA 271 at para 60.

[18] When addressing document production requests, the Alberta Court of Appeal in *Reddy v Saroya* also noted that:

answering undertakings is often dealt with on a reasonable efforts or best efforts basis; a party may be in compliance even if they are unable to provide a response or the response is not particularly useful.... Moreover, as set out in *Questor* at paragraph 60, the existence of an adequate alternate remedy is a relevant consideration when deciding whether to make a contempt declaration, even if the three elements of contempt are established. In cases such as this, relevant considerations include the potential for the alleged contemnor to be forced to trial without the missing information of for a trial judge to draw an adverse inference”:

Reddy v Saroya, 2025 ABCA 322 at para 70.

[19] Finally, the Alberta Rules of Court are to be interpreted with consideration of foundational rules, including Rule 1.2(4) which requires that the Court grant or impose remedies or sanctions proportional to the reason for granting or imposing it.

Analysis

[20] Applying the test for contempt in this situation:

- (a) It is not unequivocally clear that the Mattis Order required that RBC go into its system to pull out “metadata” not associated with records otherwise identifiable. Indeed, what I understand the Plaintiff is asking for are records that exist in an information system that relays messages one to another. It is not, for instance, the metadata associated with an email or a document, but rather information that apparently exists in the cyber world. The Mattis Order does not unequivocally

state that RBC must take such steps. No record exchange protocol as described in Practice Note 4 is present. RBC advises that it has provided all records relating to the removal of shares from the account. It does not deny that there may be information that can be pulled out of the system, it just isn't a "record" that currently exists, and therefore the Mattis Order did not unequivocally require them to extract such data.

- (b) RBC does not deny it had knowledge of the Mattis Order.
- (c) RBC was not intentional in not providing the Plaintiff with a system metadata or information extraction. Such information simply is not available in a format permitting review in the usual course of a litigation record review.

[21] In these circumstances, the test for contempt by RBC of the Mattis Order is not made out.

[22] However, even if I am wrong in the application of the test for contempt in the circumstances of the Mattis Order, I would choose to exercise my discretion so as not to find RBC in contempt. RBC took reasonable steps to comply and produced everything reasonably identifiable. That it did not "create a record" by examining metadata to extract information that might advise when one computer system advised another of the trading information is not unreasonable.

[23] Further, this situation is not one where the authority of the court has been threatened, nor is it in the best interests of justice to make a contempt order.

[24] As the Court of Appeal noted in *Reddy*, there are many adequate alternate remedies available in this circumstance where RBC advises it has no further records. Mr. Remington advises that there must be records of the sort he seeks or RBC will not have satisfied certain regulatory obligations. Adverse inference may also be available, or a claim in spoliation.

[25] Finally, and perhaps most importantly, Mr. Remington has, since filing this application, already successfully obtained from RBC the documentation he sought in his Statement of Claim to fend off the tax penalties and reassessment. It is not consonant with the foundational rules and judicial economy to grant an order for contempt in the circumstances.

[26] For the reasons earlier described, this Court is exercising its discretion and dismissing the application to find RBC in contempt of the Mattis Order and for the further disclosure sought by the Plaintiff.

Heard on the 26th day of November, 2025.

Dated at the City of Calgary, Alberta this 4th day of May, 2026.

M.R. Gaston
J.C.K.B.A.

Appearances:

Stephen George Arthur Remmington
Self-Represented Plaintiff

Sophie Mansfield, Blake Cassels & Graydon LLP
for the Defendant