

CITATION: *Bendastos et al v. Stos*, 2026 ONSC 2815
COURT FILE NO.: CV-21-00087352-00ES/CV-21-00087556-00ES
DATE: 2026/05/13

SUPERIOR COURT OF JUSTICE – ONTARIO

RE: Mary Bendastos, Moving Party

-and-

Ivan Stos, Estate trustee for the Estate of Janko Stos

BEFORE: Justice A. Doyle

COUNSEL: Cheryl Letourneau for the Objector/the moving party

Joseph Griffiths and John Cardill for the Estate Trustee for the Estate of Janko Stos

HEARD: April 28, 2026 at Ottawa

REASONS FOR DECISION

DOYLE J.

Overview

[1] The parties, Mary Bendastos (Mary) and Ivan Stos (Ivan), are siblings involved in protracted litigation relating to the financial affairs of their late parents, Janko Stos (Janko) and Marija Stos (Marija).

[2] The dispute centers on the management of multiple real estate assets, rental income and the accounting obligations of each party during periods in which they exercised control of their parents' finances. The central issue for this motion is the adequacy of Ivan's financial accounting.

[3] Ivan managed Janko's financial affairs which included four rental properties, the family home on 115 Russell Avenue, and a vacant lot in Torbolton Township (Torbolton lot).

[4] Mary was Janko's Power of Attorney from July 2011 until the trustee took over the assets on March 31, 2021. However, Ivan continued to manage the rental property at 423 Chapel (a student residential property) until August 2018 when Mary took over.

[5] Janko and Marija separated on April 14, 2015, when Marija was placed in a long-term facility. Marija commenced family law proceedings against Janko requesting, among other things, spousal support and an equalization of net family property.

[6] In September 2015, Janko was diagnosed with progressive dementia and due to his fragile overall health, his doctor concluded Janko was incapable of giving informed testimony in the family law proceedings.

[7] Marija passed away November 4, 2017, and the family law litigation continued with Ivan acting as her estate trustee.

[8] Janko and Marija resolved their family law matter by way of Minutes of Settlement dated November 12, 2018, which were incorporated into the Final Order of Justice De Sousa dated November 22, 2018 (Justice DeSousa's Order). This order established an Alter Ego Trust, which will be discussed in more detail below. The assets were transferred to the trustee pursuant to the Alter Ego Trust on March 31, 2021.

[9] Janko passed away on November 9, 2022.

[10] The Stos family real estate portfolio consisted of the following:

- Matrimonial home located at 115 Russell Avenue;
- Torbolton lot (owned jointly by Janko and Marija);
- Properties at 128-130 Osgoode Street and 93 Henderson Avenue (owned by Janko);
- Properties located at 109 Russell Avenue, 95 Henderson Avenue and 423 Chapel Street (jointly owned by Janko and Ivan); and
- Croatian property.

[11] Ultimately, the passing of accounts will determine accounting of the rental incomes and expenses as managed by the parties.

[12] Mary brings a motion for directions in the context of competing applications for the passing of accounts, asserting further disclosure is required to ensure compliance with Justice DeSousa's Order.

[13] She has provided the list of documents she is requesting from Ivan which she submits are required to complete the accounting contemplated by Justice DeSousa's Order.

[14] Mary asserts Ivan's accounts are incomplete and seeks extensive additional documentation, including bank records, rental income reconciliations, and supporting receipts.

[15] Ivan opposes the motion and submits:

- He has provided all relevant documentation available to him;
- Mary has failed to produce her own required records;
- Mary has delayed proceedings by engaging in excessive motions rather than pursuing available procedural remedies such as cross-examination or third-party production; and
- Mary has refused to attend mediation despite court orders.

[16] Both parties raise allegations of mismanagement, including:

- Improper handling of rental income;
- Failure to maintain records of property expenses; and
- Unexplained transfers of funds.

[17] A significant unresolved issue concerns a \$300,000 line of credit secured against the matrimonial home, which Ivan allegedly transferred to accounts for which he has not provided any records. The documentation regarding this transaction is incomplete.

[18] For reasons set out below, the court grants Mary's motion, in part, and directs the parties to proceed to mediation and to set a date for a passing of accounts.

Mary's Position

[19] Mary submits Ivan's accounting is woefully deficient and incomplete and he needs to comply with the clear scope and breadth of Justice DeSousa's Order.

[20] His accounting must include, among other things, from January 1, 1999 to March 31, 2021 bank statements including withdrawals, cancelled cheques and changes regarding the properties and production of all rents collected at the properties, a full and complete reconciliation of rents collected, accounts and deposits for 423 Chapel Street, missing cheques, line of credit accounting, receipts regarding renovations to the property and receipts and rents from 423 Chapel Street held in trust by John Cardill.

[21] In addition, Ivan has failed to cooperate with the trustee regarding the sale of the property in Croatia. There has been a buyer for this property since August 2024, and his identification documents (apostille identification) is required. Mary requests an order that he produce the document or alternatively allow the trustee on the Alter Ego Trust, Mr. Webb, to sign the required documents in his stead.

Ivan's Position

[22] There were disputes between the siblings as Ivan alleged Mary interfered with his management including allegedly changing locks, boarding up the property, and causing a loss of income.

[23] Ivan also managed 93 Henderson which was a garage apartment occupied by the son of his partner since 2011 with a lease with Janko.

[24] Ivan alleges that under Mary's management there were lapses in insurance coverage, arrears in property taxes and unpaid utility bills on multiple properties.

[25] Her litigation strategy has been disproportionate and instead of seeking to cross-examine Ivan on his affidavit verifying accounts or moving to compel third party records from banks, tenants or other institutions, she instead brought a motion to strike which was dismissed by the court.

[26] He also expresses concerns regarding Mary's handling of rental income, transfers of funds from Janko's account to Mary's account, and deposits into her son's account.

[27] Due to these concerns, in 2019, Ivan brought an application for a passing of accounts of Mary's management as Power of Attorney from July 1, 2011 to the time the trustee received the assets under the Alter Ego Trust on March 31, 2021.

[28] Ivan submits Mary's failure to produce relevant documents affects Ivan's ability to complete the accounting.

Family Law Litigation History

[29] The family law matter between Janko and Marija came before Master MacLeod (as he was then). On February 10, 2016, he ordered that Mary and Ivan account for the funds from the joint line of credit of \$300,000 that Janko and Marija placed on their matrimonial home for Marija's sole use.

[30] He also ordered appraisals of the properties and ordered specifically particularized financial disclosure.

[31] Justice DeSousa's Order completed the family litigation pursuant to Minutes of Settlement.

[32] Her order provided for an Alter Ego Trust which would amass all of Janko's properties (including Marija's properties) and assets naming the trustee, Travis Webb, to manage his assets until he passed away. Upon Janko's passing, the Alter Ego Trust would divide up the assets equally between Ivan and Mary based on the conditions set out in Justice DeSousa's Order which are:

- Seven pieces of real estate would be transferred to Travis Webb as trustee of Janko Stos' Alter Ego Trust to be held in accordance with a trust agreement to be negotiated by the parties in consultation with Mr. Webb. If the parties cannot agree on the wording, then the issue would be referred to an arbitrator;
- The beneficial interest of Janko would be transferred to the trust as a tax-free rollover;

- Since three properties (109 Russell Avenue, 95 Henderson Avenue, and 423 Chapel Street) were held jointly by Janko and Ivan before the transfer of the assets, Ivan will release his rights and interest and transfer title to Janko without triggering capital gains;
- In the event the Canada Revenue Agency (CRA) determined the transfer by Ivan attracts capital gains tax due, Ivan will be fully indemnified by the parties;
- The trustee will have full discretion to determine if property needs to be sold to meet various liabilities;
- The estate of Marija Stos will be indemnified for capital gains taxes payable on the deemed disposition of her interest in the property in which she had a registered interest as tenant in common in (the Torbolton property);
- The trust assets will be held in trust until the death of Janko Stos and the net income will be applied for the general welfare of Janko during his lifetime including costs associated with the matrimonial home at 115 Russell Avenue;
- The net income will also be applied for the maintenance of the trust assets;
- Upon the death of Janko, the trustee will calculate Marija and Mary's share of the surplus net-rental income, and it will be divided equally between Janko and Marija's estate;
- Janko's care costs will be applied towards his share of the net income;
- Any shortfall will be applied against the share of Marija's estate and the arbitration shall determine who is entitled to any share of the remaining net income;
- Only Janko can receive or benefit from the trust assets during his lifetime;
- The person who paid for Marija's funeral expenses will be reimbursed;
- Mary will continue to have discretion with respect to Janko's care;
- If Janko requires additional expenses over the budget, then Mary, Ivan, or Mimi Baldwin will make submissions to the Arbitrator;

- Mary will apply for a building permit for 93 Henderson and Ivan will pay the costs; and
- The Arbitrator will determine who will bear the costs to complete the City of Ottawa order to comply, dated November 6, 2018, regarding claims made by the tenant at 128-130 Osgoode Street.

[33] Justice DeSousa's Order further sets out a process if the parties did not agree on the accounting. That is, Mary and Ivan would provide accounting, at their own expense, for the periods when they received rental income and managed the properties and assets of Janko and Marija. The time period for Mary was March 1, 2011 to the appointment of the trustee, except for 423 Chapel Street, and Ivan from January 1, 1999 to the appointment of the trustee.

[34] This accounting will include:

- Gross and net rental income from all rental assets held in trust;
- All expenses related to the care of Janko and the trust assets and any financial assets held by Janko or held by anyone in trust for Janko; and
- Rents collected by Ivan for 423 Chapel and the garage at 93 Henderson from June 2011 to the date of transfer or settlement of assets in the trust.

[35] Justice DeSousa's Order also stipulates that:

- In the event of an objection taken to the accounts by either party, the person objecting shall bring an application to pass those accounts and be bound by the finding of a judge on a contested passing of accounts;
- If the parties cannot agree on retroactive spousal support, from April 14, 2015 (the date of separation) to the date of her death, taking into account rental income received by Janko during this period of time, it will be referred to an arbitrator;
- The retroactive spousal support will be paid to the estate of Marija upon the death of Janko;

- Mary will not challenge the will of Marija Stos, and Ivan will not assert a claim with respect to the trust assets he held jointly with Janko and will not challenge Janko's will; and
- Upon the death of Janko, the trust assets shall be distributed *in specie* equally between Ivan and Mary. In the event either of them predeceases Janko, their share will be paid to his or her estate.

[36] The Alter Ego Trust agreement was signed on March 31, 2021 and at that time the trustee took over the management of all the assets.

Estate Litigation History

[37] Mary brought an application for passing of accounts in trust for Janko. (File CV-21-87352-ES).

[38] On September 28, 2021, Ivan served a Notice of Objection to Mary's accounts identifying significant deficiencies, and lack of accounting for monies received and disbursements in the capital and revenue accounts.

[39] Mary filed her Reply to Notice of Objection on October 25, 2021.

[40] In response to Mary's application for Ivan to pass accounts, his counsel wrote to her counsel indicating the need to obtain Mary's documents including income and disbursement receipts and bank statements.

[41] Ivan brought his own application for the passing of accounts in trust of Janko (file CV-21-87556-ES).

[42] On November 11, 2021, Mary files her Notice of Objection to Accounts filed by Ivan.

[43] On May 27, 2021, Justice McLean ordered the parties to proceed with the accounting process and ordered Mary to produce "all financial records in her possession for the period from January 1, 1999 to June 30, 2015 to allow Ivan to prepare his accounting."

[44] Justice McLean's Order was set aside by the Divisional Court on February 15, 2022. The court found that at the hearing of the settling of the order, Justice McLean made substantive orders without giving the parties an opportunity to provide submissions. In addition, Justice McLean did not provide reasons for his rulings. Therefore, the passing of accounts was no longer required to proceed and the future passing of accounts was governed by Justice DeSousa's Order.

[45] After the Divisional Court released their decision, Mary cancelled the mediation.

[46] On January 17, 2022, Justice Gomery (as she was then), issued an Order giving directions regarding timelines and requiring the parties to mediate their objections within 120 days. There was no order that Ivan serve a revised accounting nor was there an order for more documentation to be produced.

[47] The carriage of the mediation was placed in Mary's control and originally mediation was scheduled to be held on May 31, 2022.

[48] Following the decision of the Divisional Court, the parties agreed to Justice Roger's Order dated July 15, 2022, to stay Justice Gomery's Order pending a further motion to seek directions.

[49] Since Janko's death on November 9, 2022, the parties reinstated their passing of accounts in March 2024 and the titles of proceedings were amended to include the "estate of Janko Stos", the stay of Justice Gomery's Order was lifted and the applications were directed to be heard together.

[50] Ivan's counsel suggested another mediator and suggested the date of December 14, 2023, but Mary refused. Although there were no orders requiring Ivan to produce documents, Mary insisted he should be required to amend his passing of accounts before she would attend mediation.

[51] Mary brought a motion to determine if Ivan was in contempt of Justice DeSousa's Order for failing to file a full and complete passing of accounts.

[52] On the motion for a finding of contempt, Justice Carter made the following order:

- Refused to grant Mary's motion to strike Ivan's application;

- Did not make a finding of contempt;
- Held a motion can be made for directions; and
- Otherwise, the matter should proceed to mediation as previously ordered by Justice Ryan Bell on March 19, 2024.

Discussion

Introduction

[53] Are the documents requested proportional and necessary and required before mediation or a passing of accounts can take place?

[54] Proportionality limits requests for additional documents to those which can be shown to contain probative information. It is generally not proportional to demand production of secondary documents that may just be fertile sources where one might expect or hope to find probative information. The former are relevant. The latter is fishing. See: *Apotex Inc. v. Eli Lilly and Company*, 2017 ONSC 7204, at para. 13.

[55] A passing of accounts is an inquiry into the management of estate or trust property. The governing legislation provides the court with broad authority to review and compel accounting where appropriate.

[56] Trustees and attorneys are required to maintain sufficient records to permit meaningful review, but not flawless documentation. The applicable standard is one of reasonableness, not perfection.

[57] The evidence demonstrates that Ivan has provided a substantial body of financial information, including affidavits, accounting summaries, and supporting documentation.

[58] Mary has provided particulars of deficiencies but has also made broad expansive requests.

[59] The court finds that Mary's refusal to attend mediation, and her insistence on additional disclosure as a precondition, has contributed to unnecessary delay.

[60] However, the court finds that the accounting relating to the \$300,000 line of credit is insufficient and requires further disclosure.

[61] Ultimately, the resolution of the parties' disputes requires a full hearing on the passing of accounts, which is a fact-driven inquiry.

Decision

[62] For reasons articulated below, the court will grant certain requests made by Mary.

[63] A passing of accounts is essentially a matter of fact finding.

[64] Section 50(1) of the *Estates Act*, R.S.O. 1990, c. E.21 provides for the passing of accounts by estate trustees; it reads:

An executor or an administrator shall not be required by any court to render an account of the property of the deceased, otherwise than by an inventory thereof, unless at the instance or on behalf of some person interested in such property or of a creditor of the deceased, nor is an executor or administrator otherwise compellable to account before any judge.

[65] Section 42(1) of the *Substitute Decisions Act 1992*, S.O. 1992, c. 30 provides for the passing of accounts of an attorney or guardian of property. Section 42(1) states the court may, on application, order that all or a specified part of the accounts of an attorney or guardian of property be passed.

[66] Rule 74.15(1) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 (the *Rules*) provides that any person who appears to have a financial interest in an estate may move for an order requiring an estate trustee to pass accounts. Rule 74.17(1) sets out the proper form for estate accounts. Rules 74.16 and 74.17 applies to persons acting under a power of attorney.

[67] Sections 49(2) and (3) of the *Estates Act*, empowers the court to make inquiry on the passing of the accounts of an estate trustee, etc. as follows:

(2) The judge, on passing the accounts of an executor, administrator or trustee under a will of which the trustee is an executor, has jurisdiction to enter into and make full inquiry and accounting of and concerning the

whole property that the deceased was possessed of or entitled to, and its administration and disbursement.

(3) The judge, on passing any accounts under this section, has power to inquire into any complaint or claim by any person interested in the taking of the accounts of misconduct, neglect, or default on the part of the executor, administrator or trustee occasioning financial loss to the estate or trust fund, and the judge, on proof of such claim, may order the executor, administrator or trustee, to pay such sum by way of damages or otherwise as the judge considers proper and just to the estate or trust fund, but any order made under this subsection is subject to appeal.

[68] As stated in *Fica v. Drmytryshyn*, 2018 ONSC 2034, 141 O.R. (3d) 442:

[62] An attorney for property has a duty to account for all transactions during the period when he or she assumed some responsibility for the financial activities of the grantor. The court can compel a trustee to render an account of their administration and require the trustee to pay compensation if he or she is found to be in breach of a duty to administer the trust property correctly.

[63] On an application for a passing of estate accounts, the Court has the jurisdiction to inquire whether the deceased, at the time of his or her death, should have been entitled to property that passed to an estate trustee by way of an *inter vivos* gift prior to death.

[69] As stated in *Newell v. Newell*, 2010 ONSC 5010, 62 E.T.R. (3d) 79:

[23] The process then on passing of accounts is an informal procedure which is governed by section 49 of the *Estates Act*. There is a power granted to the Court at the hearing of a passing of accounts under Rule 75.06 and a motion for directions to inter alia direct the trial of issues to be decided (Rule 75.06(3) (a)). The hearing judge may, under this rule, determine who is the plaintiff and the defendant and who is submitting rights to the court; who shall be served with the Order for directions and the procedures for bringing the matter before the court in a summary fashion, where appropriate. There are other provisions relating to the trial of an issue including such other procedures as are just (Rule 75.06(3) (g)).

[70] In *Zimmerman v. McMichael Estate*, 2010 ONSC 2947, 103 O.R. (3d) 25, Justice Strathy held that a trustee [attorney for property] must keep proper accounts and be ready to provide an accounting whenever required: at para. 31.

[71] In *Laird v. Mulholland*, [1998] O.J. No. 855, 21 E.T.R. (2d) 204 (Ont. Gen. Div.), the court dealt with a case in which an individual who was acting as fiduciary but who was not a named attorney was unable to recall the purpose of most of the withdrawals from the incapable person's account. The court held that a trustee who is a layperson is not required to keep perfect records with respect to every disbursement or expense. Ordinary prudence and diligence was all that was required: at paras. 21 and 24-27.

[72] As stated by Perell J. in *Fica*, the passing of account process is to ensure there is adequate information and he emphasized the duty to provide information that would permit meaningful review, not an unattainable standard.

[73] Ultimately, the passing of the accounts by Ivan and Mary will determine, among other things, the following:

- Marija's share of the net income;
- Ivan's accounting during the periods he received rental income and managed the properties and assets of his parents including 423 Chapel and the garage from the period of January 1, 1999 until March 31, 2021, when the trustee was appointed; and
- The amount of retroactive spousal support payable to Marija from the estate of Janko.

Mary's requests

[74] She has asked for the following within 60 days:

- Full and complete accounting from January 1, 1999 to March 31, 2021 regarding bank accounts of Janko and Marija including those dealing with all the properties; this includes all receipts, withdrawal slips, ABM withdrawals, copies of cheques and cancelled cheques, bank drafts;
- Produce full and complete accounting from January 1, 1999 to March 31, 2021 for rents collected from 423 Chapel Street as well as the garage property at 128-130 Osgoode Street,

namely 93 Henderson Avenue, which should include all lease agreements, rent rolls, receipts for rents, and the orders from the Landlord and Tenant Board;

- A full and complete reconciliation of rents collected versus deposits made is required as it appears not all of the rents collected by Ivan Stos were properly accounted for or deposited into Janko Stos' bank account. The current records do not indicate where these funds were deposited or cashed;
- Produce accounts and particulars of deposits from January 1, 1999 to March 31, 2021 for all rents collected from 423 Chapel Street as well as the garage property at 128-130 Osgoode Street, namely 93 Henderson Avenue, that were deposited to any personal accounts of Ivan Stos, third party accounts, or Marija Stos' accounts;
- Produce records specifically missing from accounting including cheques 997, 998 and 999 and an explanation of these cheques. Cheque 997, made payable to Mr. Ivan Stos, was cashed at RBC on August 29, 2011. Cheque 998, also payable to Mr. Ivan Stos, was cashed on October 17, 2011. Cheque 999, made payable to Mr. Janko Stos and signed by Marija Stos, was also affected;
- Identify and produce the account numbers, banks, and produce statements and supporting proof of how those rental funds were used, applied and/or disposed of;
- Identify and produce the account number(s) holding the funds from the line of credit of Marija Stos of \$300,000 against the property at 115 Russel Avenue which was property jointly owned between Marija Stos and Janko Stos from January 1, 1999 to March 31, 2021;
- Provide accounting for the line of credit which should include all statements showing line of credit charges and payments, the source of interest payments against the line of credit, as well as all communication with the bank concerning the defaults in interest and/or minimum payments;

- Produce all receipts, invoices, and vouchers for all renovations repairs and office expenses for all properties including 423 Chapel Street as well as the garage property at 128-130 Osgoode Street, namely 93 Henderson Avenue from January 1, 1999 to March 31, 2021;
- Produce all receipts and accounting for the rents from 423 Chapel Street held in trust by John Cardill or any other third party;
- Ivan to comply with the Alter Ego Trustee in the sale of the Croatia Property which trust property is contained in the Janko Stos Alter Ego Trust;
- The mediation provisions contained in the Order of Justice Gomery dated January 17, 2022 at paragraphs 4 and 5 are suspended until such time as the productions ordered in paragraphs 1 to 3 of the within Order are satisfied;
- The parties shall hold mediation only after the orders in paragraphs 1 to 3 of the within Order are satisfied and therefore, within 120 days of the production of complete accounting records as set out in paragraph 2 as well as the service of any revised Notice of Objections that arise as a result of those productions;
- If the applicant fails to provide the full accounting as set out in paragraph 2 of the within Order, the Objector may move immediately for orders for contempt of the within Order; and
- Ivan shall forthwith provide his identity documents to Travis Webb, the Janko Stos Alter Ego Trustee, so the trust can affect the sale of the Croatia property held in the Janko Stos Alter Ego Trust.

Ivan's responding materials

[75] Ivan has filed an Affidavit dated April 22, 2026, which explains the history of his accounting. The attached exhibits were included in Ivan's Affidavit dated August 14, 2025:

- Informal accounting with the records prepared by an accountant, Penny Tam, who was retained by his lawyer at the time, John Cardill;

- Janko's statement of accounts from January 1, 1999 to September 19, 2011;
- Statement regarding receipts of rental income and disbursements for the properties 1999-2011;
- John Cardill's statement dated November 7, 2019, disbursements of Enbridge gas and Hydro Ottawa, and trust statement showing rents received on June 6, 2018 and disbursements made;
- Janko Stos' Power of Attorney statement of account from January 1, 1999 to September 19, 2011; including rental income from 1999 to 2011;
- Disbursements from 1999 to 2011 (itemized including insurance, hydro, income tax, gas, mortgage interest, Bell Canada, City of Ottawa, Rogers and Fuel;
- Rental income including Janko's net rental income ranged from \$41,093 in 2015 to \$89,943 in 2015; and
- Investment disbursements.

[76] Ivan's affidavit dated October 10, 2019 (before the passing of Janko) outlines the following:

- He is the executor and sole beneficiary of Marija;
- Mary is the Power of Attorney for Janko;
- After the issuance of Justice DeSousa's Order, the parties had numerous discussions to finalize the trust agreement;
- His concern with respect to Mary's handling of their father's estate;
- Mary took over her father's property as Power of Attorney in 2011 but he is still managing the rental property at 423 Chapel until August 2018;

- His father had progressive dementia and resided at the matrimonial home located at 115 Russell Avenue, Ottawa;
- Ivan has values set out for the properties including:
 - o Matrimonial home: \$490,000;
 - o Torbolton lot: \$145,000;
 - o Osgoode property: \$1 million;
 - o 109 Russell: \$530,000;
 - o 95 Henderson: \$670,000; and
 - o 423 Chapel Street: \$475,000.
- He explains the parents had various investments and bank accounts;
- Upon his death, Janko's property will be divided equally between the parties;
- Paragraph 19 shows net income from the rentals:
 - o 2012: \$65,327.80
 - o 2013: \$50,151.79
 - o 2014: \$41,093.30
 - o 2015: \$89,943.85
 - o 2016: \$86,786.98
- He estimates the gross rental income for 2017 is \$151,920, taken from Janko's financial statement filed in the family law proceedings.
- He filed an affidavit of a neighbour in support of his request to remove Mary as Power of Attorney for personal care for Janko;

- Regarding 423 Chapel Street, he managed the property which he held as tenant in common with Janko; since 2014, the monthly rental income was \$2000 until August 31, 2018 when the last lease ended. In September 2018, he alleges Mary said he had no right to rent the property, and had the locks changed which resulted in him not being able to show the property to possible tenants; both parties changed the locks on a few occasions and Ivan states they lost income of \$26,000;
- He was advised by John Cardill that the two properties had not had their insurance paid, and 423 Chapel insurance may be cancelled as it was vacant and other concerns regarding insurance payments;
- Regarding 93 Henderson, he described it as a garage with an apartment rented to his partner's son, Robert Teron since June 1, 2011 for \$600 per month and hydro; (previously there was a fire in 2007 and reconstruction of the two storey garage was completed without a building permit and the city indicated it could only be rented to a family member); rental income was used to pay for renovations on the property;
- He alleges Mary caused the City of Ottawa to attend and inspect the property and issue after an inspection, an order to comply including obtaining a building permit;
- There were issues regarding payment of water usage at 93 Henderson and 128-130 Osgoode Street;
- Regarding 423 Chapel Street, he outlines the expenses of insurance, property taxes, hydro, water, and gas (which were in arrears);
- As of September 16, 2019, there was \$55,662.77 of unpaid property taxes on 423 Chapel, Torbolton lot, 95 Henderson, 109 Russell and 115 Russell Avenue and 128-130 Osgoode Street;
- He expresses concerns that Mary's documents show transfers from Janko's account to Mary's account and deposits into her son's account; and
- As a result, he is requesting an accounting of the estate of Janko from July 1, 2011.

[77] A review of the file shows that Ivan also filed the following:

- Affidavit of Ivan dated September 28, 2021, with exhibits A to W;
- Setting the invoices re expenses paid by John Cardill for 423 Chapel Street, and Trust Statement re rental income and expenses paid by John Cardill dated September 14, 2021;
- Scotiabank Account statements re 20016 09733 35 from February 7, 2001 to August 8, 2011;
- Various renovation invoices relating to 93 Henderson Avenue;
- Receipts for the care of Marija from June 2015; and
- He indicated he could not complete a full accounting without Mary's records, and he continues to search for additional financial records.

Conclusion

[78] First, Ivan has provided extensive materials as set out above.

[79] Second, Mary has not provided any information that may assist in the accounting she is seeking. She has named a broad spectrum of records which are missing, and it is not clear whether she may have access to them as having been involved in the properties as Power of Attorney before the Trustee took over management of the assets.

[80] Third, she had agreed to mediation years ago before Justice Gomery and was prepared, and consented to proceed without this accounting. It was ordered again by Justice Ryan Bell.

[81] Fourth, orders to attend mediation have not been complied with and despite numerous efforts from Ivan and his counsel, she has made other requests, thereby delaying the completion of the passing of the accounts.

[82] Mary was not content with the information provided and, instead of particularizing specific deficiencies in the accounting prepared by the accountant Penny Tam and delivered to her counsel

in January 2025, she takes the position the accounting was insufficient. Mary further maintains she will not attend mediation until Ivan provides a “proper accounting” or a revised accounting.

[83] She then brought a motion to strike Ivan’s pleadings including his own application to pass accounts and Notice of Objection, on August 21, 2025. Justice Carter found this was not appropriate and the parties should attend mediation as they had been previously ordered to do or could seek directions from the court.

[84] Next, many of her requests are overbroad and overreaching and not proportional. Courts and parties should consider the burden that document requests bring on the disclosing party, the relevance of the requested documents to the issues at hand, and the costs and time to obtain the document compared to its importance.

[85] Documents sought must be relevant and proportional to the issues in the case.

[86] Ivan has provided information for the court to review his passing of accounts, and the court can determine if it is acceptable or requires further information.

[87] Therefore, subject to my orders below, the court is not inclined to order the accounting as requested by Mary.

Line of Credit

[88] Ivan’s information regarding the line of credit is sparse.

[89] Ivan stated the \$300,000 line of credit was used for Marija’s fees. This is vague and requires more information and documentation.

[90] After the line of credit was taken out, Ivan, as Power of Attorney of Marija, transferred the \$300,000 to an unknown account for which disclosure has not been provided.

[91] Eventually, the line of credit was paid off by Janko when the joint property was transferred to the Alter Ego Trust. There were four default payments on the line of credit which had to be paid by the Alter Ego Trust and the principal and interest paid must be deducted from Ivan’s share

of the trust assets as he was solely responsible for the line of credit. A full accounting of the line of credit is required.

[92] Within 60 days, Ivan must identify and produce the account number(s) holding the funds from the line of credit of Marija Stos of \$300,000 against the property at 115 Russel Avenue. This was property jointly owned between Marija Stos and Janko Stos from January 1, 1999 to March 31, 2021. He must provide accounting for the line of credit which should include all statements showing line of credit charges and payments, the source of interest payments against the line of credit, as well as all communication with the bank concerning the defaults in interest and/or minimum payments.

Croatia property

[93] Both parties will fully cooperate and provide all documents requested by Mr. Webb to affect the transfer of the Croatian property.

Conclusion

[94] This matter must now proceed in an efficient and orderly manner. The parties are expected to comply with their disclosure obligations, attend mediation in good faith, and prepare for a final determination through the passing of accounts process.

[95] Accordingly, I order the following:

- Within 60 days, Ivan will provide a full accounting for the line of credit of Marija of \$300,000 which was held against the property at 115 Russell Avenue from January 1, 1999 to March 31, 2021 including all statements regarding the charges and payments;
- The parties will set this matter down for a hearing of the passing of the accounts. Both files will be heard together. The court estimates at least two days will be required but the parties can agree on another estimate;
- At least 60 days before the hearing date, the parties will attend mediation as previously ordered by the courts; and

- The court orders that the parties cooperate with Mr. Webb for the sale of the Croatian property.

[96] I note that Ivan has stated that Mary never complied with the financial disclosure ordered by Justice McLean that was set aside. Nevertheless, he has not brought a motion for compliance.

[97] Costs of this motion will be reserved to the judge hearing the passing of the accounts.

Justice A. Doyle

Date: May 14, 2026

CITATION: *Bendastos et al v. Stos*, 2026 ONSC 2815
COURT FILE NO.: CV-21-00087352-00ES/CV-21-00087556-00ES
DATE: 2026/05/13

SUPERIOR COURT OF JUSTICE

RE: Mary Bendastos, Moving Party

-and-

Ivan Stos, estate trustee for the estate of
Janko Stos

COUNSEL: Cheryl Letourneau for the Objector/
moving party

Joseph Griffiths and John Cardill for the
estate trustee for the estate of Janko Stos

REASONS FOR DECISION

DOYLE J.

Released: May 13, 2026