

CITATION: Orticello v. UltraStor-Caledon, 2026 ONSC 2901
COURT FILE NO.: CV-26-00008507-0000
DATE: 20260519

SUPERIOR COURT OF JUSTICE – ONTARIO

RE: CHRISTINA ORTICELLO

Plaintiff

AND:

ULTRASTOR-CALEDON

Defendant

BEFORE: Parghi J.

COUNSEL: *Christina Orticello*, self-represented

Sabatina Vassalli, for the Defendant

HEARD: May 16, 2026 (in writing, at request of plaintiff)

ENDORSEMENT

- [1] Christina Orticello has sued UltraStor-Caledon (“UltraStor”) for conversion, negligence, and breach of contract, and seeks an urgent interlocutory injunction. UltraStor, a commercial storage company, has rented out two storage units to Ms. Orticello pursuant to a “Use Agreement” entered into on January 10, 2023 (the “Agreement”). UltraStor has advised Ms. Orticello that she has defaulted on her payment obligations under the Agreement and that, in accordance with the Agreement, it will be emptying out and auctioning the contents of the units to satisfy her arrears. Ms. Orticello seeks an injunction restraining UltraStor from doing so and requiring it to preserve all contents of the units, pending the final determination of this action and two unrelated personal injury actions Ms. Orticello commenced against other defendants in 2018. Ms. Orticello says the units contain “evidence” she requires for those personal injury actions, and that emptying out and auctioning the unit contents will therefore cause her irreparable harm.
- [2] UltraStor has emptied out Ms. Orticello’s storage units and agreed to postpone any disposal or auction of their contents until the decision on this injunction motion is rendered. UltraStor now requests an order permitting it to immediately dispose of or auction the contents of the units to satisfy Ms. Orticello’s arrears under the Agreement.

- [3] For the reasons below, I dismiss Ms. Orticello's motion and permit UltraStor to dispose of or auction Ms. Orticello's storage unit contents no sooner than 21 days from today, *i.e.* on June 9, 2026 or thereafter, without further notice to Ms. Orticello. Until that date, Ms. Orticello remains at liberty to remove some or all of the unit contents from UltraStor as she chooses, at her own expense.

Background and procedural history

- [4] The terms of the Agreement are clear. The Agreement sets forth the monthly rent Ms. Orticello is to pay for each of the two storage units. It provides that late charges may be levied. It provides that if Ms. Orticello is in default of her payment obligations for seven consecutive days, UltraStor may assume she has abandoned the units and their contents and terminated the Agreement. If that occurs, UltraStor may sell, destroy, or dispose of the property contained in the units. It may sell the property to recover the rental arrears and late fees incurred by Ms. Orticello, together with the costs it incurs in effecting the sale. These rights are also established in the *Repair and Storage Liens Act*, R.S.O. 1990, c. R.25, Part-1.
- [5] The record before me is clear that Ms. Orticello is delinquent in her payments and has been so for well over seven consecutive days. Starting in early 2025, UltraStor allowed Ms. Orticello to make partial payments and reduced or waived her late fee payment obligations. On January 30, 2026, UltraStor began communicating with Ms. Orticello about how her accounts were about a year past due. It asked her to pay the full amount she owed them by March 31, 2026, failing which any property contained in the storage units would be auctioned without further notice. She has not paid the amount she owes UltraStor, which at present is about \$9,725.80.
- [6] Ms. Orticello does not dispute that she owes money, but says UltraStor is mistaken as to the amount she owes. She says she has sent some payments that UltraStor has not factored into its calculations. In my view, the evidence does not support this claim. UltraStor has provided clear documentation that shows Ms. Orticello's payments and the amount of her debt. Ms. Orticello does not identify, and I am unable to discern from her motion materials, any specific payments she has made to UltraStor which UltraStor has not accounted for. Nor do the materials suggest her account with UltraStor is anywhere close to being current, such that a discrepancy in the amount owed might be material. It is clear Ms. Orticello is in default and has been for a long time – certainly more than the seven consecutive days after which the Agreement permits UltraStor to sell or dispose of the storage unit contents.
- [7] Ms. Orticello expresses shock and displeasure that, after allowing her to make only partial payments in the past, UltraStor now seeks to enforce the terms of the Agreement. But as a matter of law, UltraStor is free to do just that. It did not waive its rights under the Agreement when it extended those courtesies to Ms. Orticello.
- [8] On March 24, 2026, Ms. Orticello brought an urgent injunction motion against UltraStor in her existing personal injury actions, to which UltraStor is not a party. In the motion, she

sought to prevent UltraStor from selling or disposing of the contents of her storage units. She sought to bring her motion *ex parte*.

- [9] Ms. Orticello's motion was dismissed. Merritt J. observed that UltraStor was not a proper party to the action and that Ms. Orticello had sought to add UltraStor as a defendant without bringing a motion. She held that Ms. Orticello had been notified on January 30, 2026 that she had two months to pay what she owed or risk having the contents of the storage units sent to auction. She further held that Ms. Orticello was not granted leave to bring the motion without notice to UltraStor.
- [10] On April 6, 2026, Ms. Orticello brought a second injunction motion. She had again attempted to add UltraStor as a defendant without a court order. Merritt J. proceeded on the basis that Ms. Orticello would commence a new proceeding against UltraStor and used the existing court file number for administrative purposes only. By endorsement dated April 7, 2026, Merritt J. dismissed the second injunction motion.
- [11] UltraStor consented, and Merritt J. ordered, that Ms. Orticello could make arrangements to observe the removal of her belongings from the storage units by video conference within ten days of the endorsement, during UltraStor's business hours, and UltraStor would store the "evidence" from the units for six months. Via endorsement dated April 20, 2026, Merritt J. clarified that if, during the emptying of her units, Ms. Orticello was able to identify items that are "evidence", she could so indicate to UltraStor.
- [12] In the flurry of correspondence that ensued, Ms. Orticello asked UltraStor about setting up a video conference, stating, "Please be advised that the unit is filled to capacity, and reviewing its contents may take up to a week or more of your staff's time. The evidence is not labeled or organized, and there are items contained within other items that will require careful examination."
- [13] UltraStor advised that it could spend two hours the following Monday to do the "video walkthrough". It emailed her the following Monday, advising that it would open her storage unit at 2 pm that day for her review and inviting her to participate in a video call.
- [14] Ms. Orticello did not attend that meeting. She maintained that UltraStor was not authorized by law to enter the storage units. She said a video conference was "not a practical solution" and that "[t]he volume of material is substantial," with the result that "it makes no sense to move anything at this stage. Proper storage will be required, including relocating items to another unit, to ensure everything is preserved appropriately." The "evidence" could not be separated out from the other unit contents, and "[d]ue to the volume of materials" in the units, "the manner in which the contents are stored and organized; and [her] absence from the jurisdiction", it was "not reasonably possible" for her "to identify or isolate specific evidentiary items through video or otherwise. Accordingly, the contents must be treated as intermingled and incapable of partial extraction without risk of loss, destruction, or compromise of evidence."

- [15] UltraStor told Ms. Orticello that she had failed to attend the observation meeting and the storage units had been emptied. It also advised her that food and propane canisters had been found in the units. The Agreement prohibits such goods from being stored in the units.
- [16] No video “walkthrough” of the contents of the storage units, either before or after they were emptied by UltraStor, was ever scheduled.
- [17] In the meantime, Ms. Orticello appealed Merritt J.’s decision on the second injunction motion, and, on April 14, 2026, sought a stay pending her appeal. I heard that stay request. Ms. Orticello initially sought to bring her stay request *ex parte*, but was instructed by the court to serve UltraStor with her materials. I dismissed her request for a stay, finding, among other things, that there was no serious issue to be tried with respect to either her failure to pay what she owed UltraStor, or the right of UltraStor to auction the contents of her storage units as a result.
- [18] On April 29, 2026, Ms. Orticello issued the Statement of Claim in this action. Two days later, she brought this motion.

The Legal Test for an Injunction

- [19] A party may seek an interlocutory injunction pursuant to s. 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, and Rule 40 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.
- [20] The test for interlocutory injunctive relief is well-established: the moving party must establish that their action raises either a serious issue to be tried or a strong *prima facie* case, they will suffer irreparable harm if an injunction is not granted until the completion of the trial, and the balance of convenience favours granting the relief sought because they would suffer greater harm than the responding party if the injunction is not granted (*RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311, at pp. 348-349; *R. v. Canadian Broadcasting Corporation*, 2018 SCC 5, [2018] 1 S.C.R. 196, at paras. 12-13). The three criteria are not to be viewed as self-contained: they are interrelated considerations, and weakness in one may be compensated for by strength in another (*Circuit World Corp. v. Lesperance* (1997), 33 O.R. (3d) 674 (C.A.)).

Serious Issue to be Tried

- [21] Ms. Orticello’s belongings have been removed from the storage units and are being held by UltraStor. She seeks to have her belongings kept there by UltraStor and not auctioned. This request does not require UltraStor to take any new affirmative steps. Rather, it asks UltraStor to maintain the *status quo*. As such, the standard to be applied to the first part of the *RJR-MacDonald* test for injunctive relief is the less onerous “serious issue to be tried” standard, which is assessed “on the basis of common sense and an extremely limited review

of the case on the merits” (*RJR-MacDonald*, at p. 348). Essentially, it requires a determination that the case is not frivolous or vexatious (*RJR-MacDonald*, at p. 337).

- [22] I find that Ms. Orticello has not demonstrated a serious issue to be tried. She claims negligence, conversion, and breach of contract as against UltraStor. At the heart of each of these claims is the assertion that UltraStor has emptied out Ms. Orticello’s possessions, and is seeking to auction them, unlawfully. I reject that assertion.
- [23] Ms. Orticello is in breach of her obligations to UltraStor under the Agreement. She has been in default of her payment obligations for well over seven consecutive days. The Agreement permits UltraStor, in response to her default, to sell or dispose of the contents of her storage units to recover what she owes them. That is what UltraStor seeks to do.
- [24] There is no serious issue to be tried in respect of any of the claims Ms. Orticello advances. There is no basis to a claim of breach of contract against UltraStor: it is Ms. Orticello who is in breach of the Agreement and UltraStor is pursuing remedies available to it under the Agreement. There is no basis to a claim of negligence: UltraStor owes no duty to Ms. Orticello to allow her to use its services for free or to preserve her property when she has been in default for this duration of time. There is no basis to a claim for conversion: UltraStor has not wrongfully interfered with Ms. Orticello’s property and is permitted by law to empty the storage units and sell or dispose of their contents.

Irreparable Harm

- [25] I must also assess whether irreparable harm will result if the injunction is not granted. The burden is on Ms. Orticello to place sufficient evidence before me to show she will suffer irreparable harm, which is harm that “either cannot be quantified in monetary terms or which cannot be cured, usually because one party cannot collect damages from the other” (*RJR-MacDonald*, at p. 341). The word “irreparable” describes the nature of the harm, rather than its magnitude (*RJR-MacDonald*, at p. 341). I am to consider the question of irreparable harm in the context of the specific facts of this case. That context includes my assessment that Ms. Orticello has not demonstrated a serious issue to be tried in respect of her claims against UltraStor.
- [26] I find that irreparable harm, as that term is reasonably construed, will not result if I refuse to grant the injunction.
- [27] Ms. Orticello provides affidavit evidence that the storage units contain “evidence” relevant to her two personal injury actions. She does not describe or particularize the “evidence”.
- [28] Even if I accept that the storage units contain such “evidence”, I have difficulty with the argument that the disposal or auction of the “evidence” would result in irreparable harm to Ms. Orticello. I say this because Ms. Orticello has steadfastly refused to take any reasonable steps to pre-empt the sale or destruction of the “evidence”. Notably:
 - a. She has been offered the chance to bring her accounts up to date, so as to avoid the need for an auction. She has not done so, despite having had ample time. She

maintains she cannot bring her accounts up to date until some later unspecified time when her personal injury litigation is completed.

- b. She has had enough time to make alternative storage arrangements. She has not done so.
- c. She has been offered the chance to observe the emptying of her units via videoconference and identify for UltraStor any “evidence” during that process. Merritt J. made an order to this effect. No such arrangements were made. She has maintained the position that the “evidence” cannot be separated out from the unit contents, and that, as a result, the unit contents must be preserved in their entirety.

[29] Any irreparable harm to Ms. Orticello as a consequence of the disposal or auction of her storage unit contents will, very regrettably, be of her own making. She has not accepted any one of the myriad solutions or accommodations Ultrastor and the court have made available to her. She has instead insisted that all the units’ contents be preserved. That is not reasonable. Nor is it consistent with the orders of this court. She cannot reasonably claim irreparable harm in these circumstances.

[30] In any event, because I am ordering that UltraStor may dispose of or auction the storage unit contents no sooner than 21 days from today, Ms. Orticello will still have one final opportunity to avert the irreparable harm she says will flow from the disposal or auction of her belongings.

Balance of Convenience

[31] Finally, I must assess the balance of convenience. The Supreme Court of Canada has held that the question to be asked here is which of the two parties will suffer the greater harm from the granting or refusal of an interlocutory injunction, pending a decision on the merits (*Manitoba (A.G.) v. Metropolitan Stores Ltd.*, [1987] 1 S.C.R. 110, at p. 129).

[32] I find that the balance of convenience favours not granting the injunction.

[33] It is certainly true that, if an injunction is not granted and Ms. Orticello succeeds at trial, the “evidence” will have been destroyed, and this is a loss that will not be compensable via damages. However, if that comes to pass, it will only be because Ms. Orticello will have rebuffed all attempts at finding a solution because she believes all her storage unit contents must be preserved in their entirety for the foreseeable future, free of charge. It is not appropriate to allow a party’s unreasonable conduct to tilt the balance of convenience in their favour. Such an approach would reward and incentivize unreasonable and even irrational behaviour, and erode the principles underlying the test for injunctive relief.

[34] If an injunction is granted and Ms. Orticello loses at trial, UltraStor will have been deprived of the opportunity to take steps to recover Ms. Orticello’s arrears, through lawful means available to it under the Agreement and by statute. Further, based on the record before me, even after trial, UltraStor will almost certainly not be able to collect from Ms. Orticello,

whose own evidence is that she will not be able to pay what she owes UltraStor until after her unrelated personal injury actions are resolved, whenever that may be.

Conclusion

[35] For the reasons above, I dismiss Ms. Orticello's motion.

UltraStor's motion

[36] I grant an order allowing UltraStor to dispose of or auction the storage unit contents no sooner than 21 days from today, *i.e.* on June 9, 2026 or thereafter, without further notice to Ms. Orticello. The record before me makes amply clear that Ms. Orticello wishes to keep her belongings in UltraStor's storage units without having to pay for doing so; that she is not prepared to accept any proposed solutions such as trying to identify the "evidence" via videoconference so that it may be set aside; and that she does not anticipate being able to pay for UltraStor's storage services until after her two unrelated personal injury actions have been resolved, whenever that may be. There is no legal reason why UltraStor should not be permitted to auction the items. There is no practical reason why Ms. Orticello should be given more time to sort out a solution, when she has no interest in doing so.

[37] Between now and the date of any disposal or auction, Ms. Orticello remains free, as she has been all along, to arrange to remove some or all of her possessions from UltraStor, at her own expense. If there is "evidence" that is as crucial as Ms. Orticello claims, she should have taken steps to preserve it by now, and should certainly seize this final opportunity.

Costs

[38] The fixing of costs is a discretionary decision under section 131 of the *Courts of Justice Act*, R.S.O. c. C.43. In exercising my discretion with respect to fixing costs, I considered the factors identified in Rule 57.01 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194. I also considered the overall objective of any costs award: that it be fair and reasonable and within the reasonable expectation of the unsuccessful party to pay (*Boucher v. Public Accountants Council for the Province of Ontario* (2004), 71 O.R. (3d) 291 (C.A.), at paras. 26, 38).

[39] UltraStor has been successful on the motion. It is therefore entitled to costs.

[40] UltraStor seeks substantial indemnity costs, on the basis that Ms. Orticello's conduct has been unreasonable, vexatious, or abusive, or has abused the court's process.

[41] I decline to award costs on an elevated scale. I accept that Ms. Orticello, who is self-represented, has now tried three times, without success, to obtain this injunctive relief. However, she has sought the same injunctive relief more than once in part because she did not name UltraStor as a defendant in the first instance, and therefore had to commence a new action and seek the same relief as before. In my view, this does not warrant an elevated costs award.

[42] UltraStor's partial indemnity costs and disbursements are \$3,316.77, including HST. I award UltraStor \$2000 in costs and disbursements, inclusive of HST. Ms. Orticello is to pay UltraStor that amount within 30 days. Stepping back and viewing the matter as a whole, I consider this a fair and reasonable result.

Date: May 19, 2026

Parghi J.