

Citation: Niagara Peninsula Energy INC. v. 12476436 Canada INC. **2026 ONSC 3037**
COURT FILE NO.: CV-23-00003590-0000
Date: May 25, 2026

SUPERIOR COURT OF JUSTICE – ONTARIO

491 Steeles Avenue East, Milton ON L9T 1Y6

RE: NIAGARA PENINSULA ENERGY INC., Plaintiff

AND:

12476436 CANADA INC., Defendant

BEFORE: Justice C. PETERSEN

COUNSEL: DUGAS, SIMON, for the Plaintiff - *Present*
KUMAR, ABHINAV, Self-Represented – Representing the
Defendant - *Present*

HEARD: May 22, 2026, by Videoconference

ENDORSEMENT

[1] The plaintiff is a licensed Ontario electricity distribution company. It commenced an action against the defendant corporation on November 23, 2023 for non-payment of invoices relating to the plaintiff's supply of electricity to the defendant.

[2] The plaintiff obtained default judgment against the defendant on April 25, 2024. The court ordered the defendant to pay the plaintiff \$129,622.17, plus pre- and post-judgment interest, and to pay the plaintiff's costs of the action, fixed at \$1,987.88, plus interest. None of those payments have been made.

[3] The plaintiff took steps to enforce the judgment. It scheduled an examination in aid of execution for June 26, 2024. The deponent was to be Abhinav Kumar, the owner and sole director of the defendant corporation. Mr. Kumar did not attend the scheduled examination.

[4] In November 2024, pursuant to a motion brought by the plaintiff, Justice Yamashita ordered Mr. Kumar to attend an examination in aid of execution on a date to be selected by the plaintiff. She also ordered him to furnish the plaintiff's lawyers with documents related to the defendant's financial circumstances, at least seven days prior to the examination. She specified a list of the requisite documents in a schedule attached to her order. She further ordered the defendant to pay the plaintiff's costs thrown away for the missed examination on June 26, 2024, in the amount of \$2,324.98, and she ordered the defendant to pay costs of the plaintiff's motion in the amount of \$752.58. She specified that those costs had to be paid within 30 days.

[5] Mr. Kumar did not attend the rescheduled examination and did not furnish any of the required documentation to the plaintiff's lawyer. None of the costs was paid by the defendant.

[6] On November 24, 2025, after a motion hearing, I found the defendant to be in contempt of the orders of Justice Yamashita dated November 26 and 28, 2024.

[7] I scheduled a triage conference to fix a date for the sentencing phase of the contempt motion hearing. I also made orders to give the defendant an opportunity to purge the contempt prior to sentencing. Among other things, I ordered Mr. Kumar to deliver the documents ordered produced by Justice Yamashita by no later than January 30, 2026. If such documents could not be produced, I ordered Mr. Kumar to provide a sworn affidavit detailing the efforts made to obtain and produce the documents and explaining why they could not be produced. I also ordered Mr. Kumar to attend an examination in aid of execution prior to February 20, 2026.

[8] The sentencing hearing for the defendant's contempt was conducted today. It is now my task to determine what sanctions to impose.

[9] The principal objective of sentencing in civil contempt cases is to coerce compliance with outstanding court orders: *Korea Data Systems Co. v. Chiang*, 2009 ONCA 3, at para. 11; *Business Development Bank of Canada v. Cavalon Inc.*, 2017 ONCA 663, at para. 77; *907037 Ontario Inc. v. Plating Plus Ltd.*, 2024 ONSC 4594,

at para. 10. The primary focus is on protecting and enforcing the rights of a private party.

[10] However, civil contempt cases also have a public law component that cannot be ignored in the sentencing phase. Acts of civil contempt undermine the authority of the courts and diminish respect for the law. There is therefore a secondary purpose in sentencing, which is to punish the contemnor in order to signal the importance of respect for court orders. The penalty imposed must be adequate to denounce the contemnor's non-compliance and to deter others from engaging in similar contemptuous conduct: *Business Development Bank*, at paras. 77-81; 2363523 *Ontario Inc. v. Nowack*, 2016 ONSC 2518, aff'd 2016 ONCA 951, 135 O.R. (3d) 538, at paras. 68-72, leave to appeal to S.C.C. refused, 37376 (June 1, 2017).

[11] Where a finding of civil contempt is made, the court has broad discretion to issue such sentencing orders as are just in the circumstances. Rule 60.11(5) of the *Rules of Civil Procedure* stipulates that:

the judge may order that the person in contempt,

- (a) be imprisoned for such period and on such terms as are just;
- (b) be imprisoned if the person fails to comply with a term of the order;
- (c) pay a fine;
- (d) do or refrain from doing an act;
- (e) pay such costs as are just; and
- (f) comply with any other order that the judge considers necessary,

and may grant leave to issue a writ of sequestration under rule 60.09 against the person's property.

[12] Rule 60.11(6) stipulates that, where a corporation is found to be in contempt, the court may make an order under r.60.11(5) against any officer or director of the corporation. I therefore have authority and jurisdiction to make orders against Mr.

Kumar personally, in his capacity as the sole director of the defendant corporation in this case.

[13] The relevant factors for consideration in determining the appropriate penalty for civil contempt were set out by the Court of Appeal in its decision in *Boily v Carleton Condo Corp.*¹⁴⁵, 2014 ONCA 574, at para 90, as follows:

- (a) the proportionality of the sentence to the wrong-doing;
- (b) the presence of mitigating factors;
- (c) the presence of aggravating factors;
- (d) deterrence and denunciation;
- (e) the similarity of sentences in like circumstances; and
- (f) the reasonableness of a fine or incarceration.

[14] The plaintiff is not, at this stage, asking the court to order imprisonment of Mr. Kumar, or payment of a fine by Mr. Kumar or the defendant corporation. Rather, the plaintiff asks the court to impose the following sanctions:

- (i) an order compelling Mr. Kumar, on behalf of the defendant, to:
 - a. deliver to the plaintiff copies of all documents ordered to be produced by Justice Yamashita in Schedule A to her Order dated November 26, 2024 (subject to subparagraph (b) below); and
 - b. serve and file a further and better sworn affidavit outlining Mr. Kumar's efforts to obtain any documents that are listed in Schedule A to Justice Yamashita's Order dated November 26, 2024 that the Defendant cannot produce, along with an explanation for why such documents cannot be produced;
- (ii) an order requiring Mr. Kumar to fulfill the undertakings he gave at his examination in February 2026, within 30 days of today's date (i.e., by no later than June 22, 2026);
- (iii) an order requiring the parties to attend a future hearing to speak to this matter and, if necessary, address further sanctions if the

orders sought in subparagraphs (a) and (b) above are not complied with; and

- (iv) an order requiring the defendant and Mr. Kumar to jointly and severally pay \$37,836.90 for the costs of both phases of this contempt motion on a substantial indemnity basis, the Motion in Writing (as ordered by Justice Yamashita), the costs thrown away for the first missed examination (as ordered by Justice Yamashita) and the second missed examination, and the costs of the examination that was conducted on February 18, 2026.

[15] For the reasons that follow, I find that the above-requested sanctions are fair, reasonable and proportionate in the circumstances of this case.

[16] In terms of mitigating factors, Mr. Kumar did finally attend an examination in aid of execution on February 18, 2026. He was cooperative in answering questions. However, the weight to be given to this mitigating factor is limited because he gave undertakings at the examination that have not yet been answered. The plaintiff's counsel sent him a chart outlining the undertakings on March 17, 2026. More than two months have passed, and he has not yet responded.

[17] In terms of aggravating factors, Mr. Kumar did not comply with the other orders that I made on November 24, 2025 to purge the defendant's contempt. He did not produce any of the documents ordered by Justice Yamashita prior to the examination on February 18, 2026. He delivered a sworn affidavit dated January 28, 2026, but the affidavit is brief and contains only bald statements to the effect that he does not have the documents at issue. It provides no information about any efforts made to obtain and produce the requisite documents.

[18] While some of the statements in the affidavit adequately explain reasons for non-disclosure, others do not. For example, Justice Yamashita ordered the defendant to provide "particulars of the contents in any safety deposit boxes." Mr. Kumar's affidavit states, "Do not have any safety deposit box." This statement is sufficient to comply with that specific term in her order.

[19] However, Justice Yamashita also ordered the defendant to produce “tax returns together with supporting documents and any notices of assessment from July 2022 to date.” No tax documents were delivered. Mr. Kumar’s affidavit simply states, “Do not have tax documents for 2022 onwards.” This is not a satisfactory explanation.

[20] The affidavit should have contained an explanation as to why the defendant does not have tax documents for 2022 onward. Were taxes not filed in 2022 and subsequent years? If no taxes were filed, why were they not filed? If they were filed, what happened to the tax records? If the records were lost, copies of past tax filings and Notices of Assessment can be obtained from the Canada Revenue Agency. What efforts have been made by Mr. Kumar to obtain those documents from the CRA? That is the sort of information that the court requires Mr. Kumar to furnish in a sworn affidavit. These are examples and do not constitute an exhaustive list of what is required.

[21] Similarly, Justice Yamashita ordered the defendant to produce “a list of all bank accounts of the defendant along with corresponding bank statements from July 2022 to date.” Mr. Kumar’s affidavit states, “Do not have bank statements/details. Account was closed by the bank because of negative balance. I have raised a request to provide statements from archive. Will provide as soon as received.” When the parties appeared before me at a Triage Conference on February 4, 2026, Mr. Kumar reiterated that he would produce the bank statements as soon as they were obtained. He said he expected to obtain them early the following week. No bank statements have been delivered to the plaintiff’s lawyer, and no explanation has been provided (in the form of evidence in a sworn affidavit) as to why the bank statements were never produced. For example, if the bank has advised Mr. Kumar that the statements no longer exist, proof of that communication (in the form of a letter from the bank) needs to be produced.

[22] In his affidavit, Mr. Kumar should have provided, at minimum, the name and address of the bank(s) that held accounts for the defendant, the account numbers, the dates on which the accounts were closed, and proof of the steps he has taken to

obtain statements pertaining to the closed accounts from the bank's archives. If he does not have a record of the bank account numbers, he should have requested that information from the bank, in writing, and produced a copy of his correspondence with the bank, to demonstrate the efforts he was making to comply with my order.

[23] Another example of the insufficiency of the defendant's actions to purge the contempt relates to Justice Yamashita's order to produce "all documents and things in the defendant's power, possession or control relevant to ... the disposal the defendant has made of any property either before or after the making of the order." Mr. Kumar's affidavit states, "Have not disposed of any property before or after the judgment on April 24, 2024." That statement is inconsistent with other statements in his affidavit, including that a vehicle was re-possessed because of non-payment, real property was re-possessed because of non-payment of a mortgage, and other "property was re-possessed, and the contents were disposed."

[24] No details are provided in the affidavit with respect to what type of vehicle was owned, when it was purchased and how it was financed, when it was repossessed, and whether any debt remains outstanding with respect to the vehicle. No details are provided with respect to the real property that was owned, the address at which it was located, whether it was owned exclusively by the defendant or jointly with any other party, the amount of the mortgage on the property, the name of the mortgagee, when default on the mortgage occurred, how much was outstanding when the mortgagee obtained possession of the property, and what happened afterward. Was the property sold under power of sale? If so, when. What are the details of the power of sale. How were the proceeds of sale disbursed?

[25] These are just some of the questions that remain unanswered. Mr. Kumar has provided no explanation as to why he has not furnished any documents in relation to the defendant's assets and their repossession/disposition. If he did not retain any of the relevant documentation, he must take steps to obtain copies from the appropriate sources (e.g. the mortgagee) and must demonstrate his efforts to do so (e.g. by providing copies of correspondence requesting the relevant documents).

[26] The above are just a few examples of the insufficient efforts made by the defendant to purge the contempt. It is not an exhaustive list of deficiencies.

[27] At the sentencing hearing today, Mr. Kumar advised the court that he is actively searching for work, that he feels “close to getting a good job,” and hopes to be able to start earning an income that would enable him to pay off the judgment that is outstanding. I explained to him that, although the judgment needs to be satisfied, the court’s focus, in this contempt motion, is on the ongoing non-compliance with the disclosure orders made by Justice Yamashita 18 months ago.

[28] The plaintiff remains in the dark about the corporate defendant’s financial situation. It is not reasonable for Mr. Kumar to make promises to pay the outstanding judgment from over two years ago and expect the plaintiff to sit back and wait, without any information about the defendant’s ability to pay, or any evidence of the defendant’s inability to pay. Given the history of this file, the plaintiff understandably perceives Mr. Kumar’s promises to be empty, if not insincere.

[29] The plaintiff’s right and ability to take enforcement steps is being thwarted by Mr. Kumar’s actions. The defendant’s contempt of the court orders remains largely unpurged. This amounts to an aggravating factor in sentencing.

[30] The defendant’s non-compliance with court orders has not only stymied the plaintiff’s efforts to enforce the default judgment, it has also caused the plaintiff to incur significant costs in pursuing disclosure and examinations in aid of execution, and pursuing this motion for contempt. The defendant has been ordered to pay some of those costs, but those orders have not been satisfied. That is another aggravating factor for consideration in determining the appropriate sentence in this case.

[31] The first two sanctions sought by the plaintiff (see paragraph 14(i)(ii) above) serve the purpose of protecting the plaintiff’s right to take appropriate steps to enforce the court judgment it obtained. The third sanction (paragraph 14(iii)) invokes court monitoring and threatens the imposition of further penalties on the defendant and Mr. Kumar personally in the event of continued non-compliance. That order is necessary

to coerce compliance with the first two sentencing orders. Requiring the parties to attend a future hearing to speak to this file is therefore appropriate. That hearing will be conducted virtually, at 9:00 AM, on June 25, 2026.

[32] The final sanction sought by the plaintiff (paragraph 14(iv)) is the imposition of joint and several liability for costs (on the defendant and Mr. Kumar personally, in his capacity as the sole director of the corporation) on a substantial indemnity basis. This order is necessary to denounce the defendant's misconduct and to effectively deter such conduct. The court cannot countenance the intentional flaunting of its orders.

[33] I am cognizant of the principle of harmonization, namely the need to ensure that the sentence imposed in this case is not only proportionate to the defendant's wrongdoing but is also comparable in severity to the sanctions imposed in other contempt cases with similar circumstances. The plaintiff submits that, in analogous cases, Ontario courts have imposed joint and several liability for substantial indemnity costs in order to punish judgment debtors who breach orders to attend examinations in aid of execution, even when the contemnors eventually come into compliance: *Corporation of the Municipality of South Bruce v 1260964 Ontario Inc.*, 2015 ONSC 2206 at paras. 76- 77.

[34] In this case, as in the *South Bruce* case, the defendant's contempt is the result of the decisions, actions and inaction of its controlling officer and director, Mr. Kumar. It is therefore appropriate for costs to be borne jointly and severally by him.

[35] Moreover, as the plaintiff's counsel points out in his submissions, by reason Mr. Kumar's failure to provide any documents shedding light on the defendant's financial circumstances, it is unknown whether the defendant will be able to satisfy the costs award. If it turns out that the defendant is impecunious (as Mr. Kumar suggests), then making an order for costs against the corporate defendant alone will be inadequate to satisfy the goal of deterring the contemptuous conduct in this case.

[36] For all the above reasons, the orders set out in paragraph 14 of this judgment will issue. I remain seized of this file. Further sanctions may be imposed at the next

hearing date on June 25, 2026 if Mr. Kumar does not completely purge the defendant's contempt and comply with the sentencing orders made. I put Mr. Kumar on notice that such penalties could include a fine and an order of imprisonment.

[37] Mr. Kumar asks for leniency from the court in paying the costs awarded given his difficult personal financial circumstances. There is evidence in the motion record of the financial struggles that he is experiencing and from which he is trying to recover. He testified on November 24, 2025 that his home was "taken by the bank" and that he and his spouse have been moving from one place to another, staying with friends and family. He is currently unemployed and states that he is actively searching for work.

[38] I am not persuaded that the quantum of the costs award should be reduced, because that would undermine the fundamental purposes of sentencing. However, I am prepared to make some allowance in terms of a timetable for payment of the costs.

[39] Mr. Kumar is therefore ordered to pay the \$37,836.90 in costs in monthly installments over the next seven months. The first installment in the amount of \$7,836.90 must be paid within 30 days (i.e., by no later than June 22, 2026). The remaining six installment, each in the amount of \$5,000, must be paid on the first day of each consecutive month commencing August 1, 2026 and ending January 1, 2027.

[40] An order will issue reflecting the terms in this Endorsement. The plaintiff may file a draft order without first obtaining the defendant's or Mr. Kumar's consent to the form and content of the order.

Petersen J.

Released: May 25, 2026