

CITATION: *Filion et al v. Gauthier et al*, 2026 ONSC 3227
COURT FILE NO.: CV-24-00097416
DATE: 2026/06/02

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Lise Filion and Annette Morin

Plaintiffs

– and –

Marc Gauthier and Cabinet Juridique Marc
Gauthier Professional Corporation

Defendants

Monick L. Grenier, for the Plaintiffs

Self-Represented Defendants

HEARD: April 21, 2026

REASONS FOR JUDGMENT

JUSTICE MARIA N. SIRIVAR

OVERVIEW

[1] The Plaintiffs move for default judgment against the Defendants seeking the following relief, jointly and severally, against the Defendants:

- a. liquidated damages in the amount of \$209,733.60;
- b. general damages for pain and suffering in the amount of \$20,000.00;
- c. punitive and exemplary damages in the amount of \$75,000.00;
- d. costs of this action on a substantial indemnity basis; and

- e. prejudgment and post-judgment interest in accordance with the *Courts of Justice Act*.

[2] The issues to be decided are:

- a. whether the Plaintiffs are entitled to liquidated damages and in what amount;
- b. whether general damages should be awarded;
- c. whether punitive damages are warranted and in what amount, and
- d. whether the costs of the action should be awarded.

UNDISPUTED EVIDENCE

Background

[3] The Plaintiffs, Lise Filion and Annette Morin, are sisters. Their brother, Alain Filion, is deceased, and his son, Frédéric Ippersiel-Filion, is the Estate Trustee (the “Estate”). The Defendant, Marc Gauthier, is a lawyer licensed to practice law in Ontario, and the corporate Defendant is his professional corporation. He practiced in the Hawkesbury area and was retained by the Plaintiffs in September 2023 to assist with the administration of the Estate. Margo L. Pomerleau represented the Estate.

[4] On March 5, 2024, an agreement was reached regarding the handling of two properties jointly owned by the Plaintiffs and the deceased. The terms of the agreement were reflected in email exchanges between Ms. Pomerleau and Mr. Gauthier. The parcel of land located at 2914 Bay Road, L’Orignal, Ontario (the “River Lot”), was sold to a third party, and Mr. Gauthier acted for both the Estate and the Plaintiffs in that transaction. The Plaintiffs agreed to purchase the deceased’s interest in the parcel of land located at 2875 Bay Road, L’Orignal, Ontario, an inherited farm property (the “Farm Lot”), from the Estate for \$313,333.00.

[5] On March 12, 2024, Mr. Gauthier provided the Plaintiffs with his banking information and requested that the funds payable to “Marc Gauthier Professional Corporation in Trust” be transferred to his trust account. On March 13, 2024, Ms. Filion transferred \$156,667.00 to the trust account. On March 14, 2024, Ms. Morin transferred \$156,666.00 to the trust account.

[6] On April 3, 2024, Mr. Gauthier advised the Plaintiffs that the land transfers would be completed on May 1, 2024. On that date, however, only the transfer of the River Lot was completed, and Mr. Gauthier was paid for his legal services. The Plaintiffs followed up with Mr. Gauthier, and last spoke to him on July 2, 2024, when he advised that the paperwork for the Farm Lot was in order and that the transaction would occur shortly. From the anticipated closing date in May through the end of September 2024, the Plaintiffs and their family members made numerous unsuccessful attempts to follow up with Mr. Gauthier, including by visiting his office and the locations he frequented.

[7] Ms. Pomerleau also followed up with Mr. Gauthier several times without success. She wrote to him on June 26, 2024, advising that the necessary preparations of the Farm lot were complete and that the Estate was ready to proceed. She wrote again on July 26, 2024. On several occasions in July and early August 2024, she attempted to schedule a meeting with Mr. Gauthier to move the matter forward, but appointments were rescheduled or cancelled.

[8] On August 30, 2024, Mr. Gauthier responded to Ms. Pomerleau's August 19, 2024, email. He advised that he had taken a leave of absence due to personal circumstances and requested her availability for a telephone call to arrange a meeting. No further communication followed, and no meeting occurred. Ms. Pomerleau's client later attended his office and learned that the law office was closing.

[9] On September 30, 2024, the Plaintiffs retained counsel, who sent a demand letter to the Defendants requiring Mr. Gauthier to make contact to receive instructions for the release of the trust funds in the amount of \$313,333.00, failing which proceedings would be commenced without further notice. No response was received.

[10] On October 2, 2024, Alana Guy, a lawyer from Ms. Pomerleau's office, emailed the Plaintiffs directly, advising that the Estate remained prepared to take the necessary steps to close the transaction. The Plaintiffs learned that Ms. Pomerleau's office had not been advised that Mr. Gauthier and his firm were in possession of the closing funds in trust.

Procedural History

[11] On October 4, 2024, counsel for the Plaintiffs contacted the court to seek an urgent ex parte motion for a Mareva injunction. The Statement of Claim was issued on October 8, 2024. The Plaintiffs first appeared before Justice Ryan Bell on October 15, 2024. The matter was adjourned for the Plaintiffs to give the Law Society of Ontario (the “LSO”) notice of the motion, as the assets sought to be frozen included the Defendants’ trust account. The Team Manager of the Consulting and Custodianship Services wrote to the Plaintiff’s counsel, stating that the LSO did not take a position on the motion. While they were monitoring the situation closely, they did not intend to seek an appointment as trustee of Mr. Gauthier’s professional business.

[12] The matter returned before Justice Ryan Bell on October 16, 2024. Mr. Gauthier was ordered to attend on the return of the motion on October 21, 2024, and to bring the trust ledger and records related to the sum at issue. Mr. Gauthier attended before Regional Senior Justice (“RSJ”) MacLeod for the return of the motion. However, he did not file any material or bring any records. In the endorsement granting the Mareva injunction, RSJ MacLeod noted,

“He advised the court that he received the funds from the clients and deposited them into trust, but also advised the court that he had withdrawn those funds for his own purposes and had not closed the real estate transaction.”

Efforts to Resolve

[13] The Defendants were noted in default on November 12, 2024. On February 20, 2025, Daniel Iny wrote to Plaintiffs’ counsel advising that he had been retained by the Lawyers’ Professional Indemnity Company (“LawPro”) on behalf of Mr. Gauthier. Mr. Iny served a Notice of Intent to Defend and requested that Plaintiffs’ counsel allow time to review the file and refrain from seeking default judgment. The discussion between the parties was delayed and interrupted by complications arising from multiple complainants alleging misappropriation of trust funds and the limited pool of funds available through LawPro.

[14] On August 20, 2025, the Plaintiffs sought a default judgment for a liquidated sum, based on the funds taken by the Defendants, plus costs. On August 21, 2025, the register declined to sign the default judgment pursuant to Rule 19.04(3)(a) of *the Rules of Civil Procedure*.

[15] On January 29, 2026, Mr. Gauthier was charged with various criminal offences, including fraud over \$5,000, in relation to the Plaintiffs' funds held in trust. On February 5, 2026, the parties executed a full and final release as against LawPRO and a partial release as against the Defendants, reflecting payment of \$103,599.40 to the Plaintiffs.

ANALYSIS

[16] Where a defendant is noted in default, liability is deemed admitted. However, the Court must still be satisfied that the plaintiff has established entitlement to the relief claimed, including proof of damages. The Court retains discretion to assess the evidence and to refuse damages that are not supported on the record.¹

Liquidated Damages

[17] Funds were paid into the Defendants' trust account for a specific purpose and remain the property of the Plaintiffs until they are properly applied. The Plaintiffs' evidence establishes, and Mr. Gauthier has acknowledged, that in March 2024, the Plaintiffs transferred \$313,333 to the Defendants' trust account for the purpose of closing a land transfer. The transaction did not close, and the funds were not returned to them despite numerous attempts by the Plaintiffs, their new counsel, and counsel for the Estate to reach Mr. Gauthier.

[18] After accounting for the payment of \$103,599.40, the Plaintiffs are entitled to liquidated damages in the amount of \$209,733.60. This amount is fixed, readily calculable, and supported by the undisputed evidence.

General Damages

[19] General damages, including damages for emotional distress, require evidence of compensable harm. I reject the argument that such damages can be inferred from the circumstances of this case. While the Plaintiffs may have experienced pain and suffering as a result of the

¹ See *Nikore v Jarmain Investment Management Inc.* (2009), 97 O.R. (3d) 132, 180 A.C.W.S. (3d) 602 (S.C.J.); *Churchill v Aero Auction Sale Inc.* (2019), 147 O.R. (3d) 44 (S.C.J.)

Defendants' conduct, there is no evidentiary basis to support an award of general damages. Counsel conceded the lack of evidence in submissions.

Punitive Damages

[20] The Plaintiffs did not file a factum nor provide legal analysis or case law to support this motion. Counsel was unable to identify any authorities supporting the quantum claimed. I further note, although referred to in support of an award for punitive damages, that the Plaintiffs did not seek damages for breach of fiduciary duty. The Plaintiffs argue that the punitive damages they seek are appropriate given:

- a. The egregious nature of Mr. Gauthier's conduct.
- b. He had a fiduciary duty.
- c. He failed to take steps to return the funds.
- d. He failed to take responsibility and return the funds.
- e. His conduct should be denounced and deterred.

[21] Punitive damages are granted in exceptional cases for "malicious, oppressive and high-handed" misconduct that "offends the court's sense of decency." They are limited to conduct that significantly deviates from typical standards of decent behaviour. Their purpose is to punish the defendant rather than to compensate the plaintiff. Punitive damages are awarded in an amount no greater than necessary to rationally accomplish their purpose.²

[22] In *Aubin v Bowie*, 2024 ONSC 5688, Justice Heather Williams considered a \$100,000 claim for punitive damages against a lawyer. The Plaintiff was a vulnerable, impecunious client with mental health challenges, facing criminal charges. When asked for a payment plan for legal fees, Mr. Bowie, who knew the Plaintiff was vulnerable and that her mental health was declining to the point that she was feeling suicidal, suggested an exchange of sexual services for legal

² See *Whiten v. Pilot Insurance Co.*, 2002 SCC 18, [2002] 1 S.C.R. 595

services. When the Plaintiff refused, the lawyer persisted and sent her a photograph of his penis. He told her that engaging in sexual activity with him would help her feel better.

[23] After the plaintiff retained a new lawyer who filed a complaint with the LSO against the defendant, Mr. Bowie hosted an online chat in which he named the plaintiff, discussed her retainer, disclosed confidential information she had provided to him, and alleged that she had complained to the LSO to avoid paying his fees. In awarding \$25,000 in punitive damages, Justice Williams wrote at paragraph 54:

“The defendant harmed not only the plaintiff but the reputation of lawyers generally. While his misconduct was directed toward the plaintiff, and directly and seriously harmed the plaintiff, its effects will have been felt more widely. “While it may be difficult to measure with precision the harm that a lawyer’s misconduct may have on the reputation of the profession, **there can be little doubt that public confidence in the administration of justice and trust in the legal profession will be eroded by disreputable conduct of an individual lawyer.**” [Emphasis added]

[24] As in *Aubin v. Bowie*, I find that Mr. Gauthier’s conduct warrants the sanction of punitive damages as it is shocking, an offence to the court’s sense of decency, and undermines public confidence in the administration of justice and the legal profession as a whole. I am satisfied that an award of \$30,000 in punitive damages, being \$15,000 for each Plaintiff, is appropriate and sufficient to achieve denunciation and deterrence. In so concluding, I rely on the following:

- a. Mr. Gauthier’s complete disregard for his obligations, in the context of a lawyer-client relationship, regarding the use of money in trust, communicating with the Plaintiffs and completing the property transfer.
- b. The nature and the seriousness of the Defendant’s breach of the Plaintiffs’ trust.
- c. The circumstances of the Plaintiffs who were settling the estate of their late brother.
- d. Mr. Gauthier ultimately admitted to misappropriating the trust funds, engaged LawPro, and the Plaintiffs recovered \$103,599.40.

- e. Mr. Gauthier has been charged criminally and faces LSO proceedings. I note these factors only as part of the broader consequences arising from the same events.

COSTS

[25] Based on the foregoing, and considering the factors set out in Rule 57.01, I find that the Plaintiffs are entitled to the costs of the action on a substantial indemnity basis. I have reviewed the cost outline filed, and I fixed those costs at \$28,071.00 inclusive of fees, disbursements, and sales tax.

DISPOSITION

[26] Judgment is granted in favour of the Plaintiffs as follows:

- a. liquidated damages in the amount of \$209,733.60;
- b. punitive damages in the amount of \$30,000;
- c. substantial indemnity costs fixed at \$28,071.00 inclusive of tax and disbursements; and
- d. prejudgment and post-judgment interest in accordance with the *Courts of Justice Act*.

[27] The claim for general damages is dismissed.

Justice Maria N. Sirivar

Date: June 2, 2026

CITATION: Fillion et al v. Gauthier et al, 2026 ONSC 3227
COURT FILE NO.: CV-24-00097416
DATE: 2026/06/02

ONTARIO

SUPERIOR COURT OF JUSTICE

RE: Lise Fillion and Annette Morin, Plaintiffs

-and-

Marc Gauthier and Cabinet Juridique
Marc Gauthier Professional Corporation,
Defendants

COUNSEL: Monick L. Grenier, for the Plaintiff

Defendants Self Represented

REASONS FOR JUDGMENT

SIRIVAR J.

Released: June 2, 2026