

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

Christina Coletti o/a
Scenes From Dinner

Plaintiff

– and –

Jake Pollock also known as Jake Kelza

Defendant

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) Jomaa Nour, for the Plaintiff
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) Defendant - Self-Represented
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) **HEARD:** June 2, 2026

RULING ON MOTION

HEBNER J.:

- [1] This is the plaintiff's motion for an order striking Mr Pollock's statement of defence. The motion is brought under rr. 57.03(2) and 60.12 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, that read:

57.03(2) Where a party fails to pay the costs of a motion as required under subrule (1), the court may dismiss or stay the party's proceeding, strike out the party's defence or make such other order as is just.

60.12 Where a party fails to comply with an interlocutory order, the court may in addition to any other sanction provided by these rules,

(a) stay the party's proceeding;

(b) dismiss the party's proceeding or strike out the party's defence; or

(c) make such other order as is just.

- [2] The basis of the motion arises from two costs awards. The first is that of Bezaire J. dated October 25, 2025, requiring the defendant and his then co-defendants, Chelsea Hanna Zammit, also known as Chelsea Froese, and 2645706 Ontario Limited o/a Kings Bakeshop,

to pay costs to the plaintiff in the sum of \$17,250. The second is that of Rouleau J.A. dated March 30, 2026, requiring the defendants to pay costs to the plaintiff in the sum of \$5,000. No payments have been made on either order.

- [3] The motion was originally returnable on May 26, 2026. Ms. Zammit did not attend that motion and nobody attended for the corporate defendant. Macfarlane J. struck the defence of those two defendants and adjourned the motion to allow Mr. Pollock time to deliver responding materials.
- [4] For the reasons that follow, I would grant Mr. Pollock 60 days to pay the costs owing failing which, the plaintiff is at liberty to bring a motion to strike the defence without notice to Mr. Pollock.

Background

- [5] There is a helpful summary of the action set out in the order of Bezaire J. dated July 11, 2025, 2025 ONSC 4125.
- [6] This action is a claim for damages for defamation. The plaintiff has an Instagram account, @scenesfromdinner. The defendant, Chelsea Zammit, operated a bakery known as Kings Bakeshop. The plaintiff offered to promote Ms. Zammit's croissants on the account, @scenesfromdinner, and wrongly assumed that Ms. Zammit would provide the croissants free of charge. When Ms. Zammit demanded payment, a dispute arose, and the plaintiff ultimately paid for the croissants.
- [7] Thereafter, Ms. Zammit discovered that her previous promotions were no longer visible on @scenesfromdinner. She concluded that the plaintiff deleted them. Ms. Zammit posted a public story on her Instagram account about their dispute though she did not mention Ms. Coletti by name.
- [8] Mr. Pollock is an influencer who operated Instagram accounts: @MadeinYQG and @JakeinYQG/@JakeKelza. He observed the story and became involved. The dispute escalated from there and resulted in derogatory comments. These comments included Mr. Pollock creating an Instagram account, @viewsfromsupper, using it to mock the plaintiff's account, call her names, and suggest that the plaintiff engaged in inappropriate conduct.
- [9] The plaintiff commenced this action claiming damages in the amount of \$1,000,000 for defamation along with punitive damages of \$250,000.
- [10] The defendants brought a motion under s. 137.1 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, to dismiss the claim. They asserted that the claim was a Strategic Lawsuit Against Public Participation ("SLAPP"). The motion was dismissed by Justice Bezaire on July 11, 2025. She found that the expressions made by the defendants were not related to a matter of public interest. Instead, she found that the expressions made by the defendants were "very personal". She said the following about the expressions, at para. 23:

(The defendants) made assumptions and shared their opinions about Ms. Coletti's alleged conduct. Their expressions included name-calling, personal insults, and accusations. The expressions do not implicate or involve issues such as the wider community, safety, or community welfare. Like in *Benchwood*, I conclude that the defendants' expressions reflect no more than a bitter private dispute.

- [11] This led to the first costs award outlined above. The defendants sought to appeal the motion ruling and brought a motion in the Ontario Court of Appeal for an extension of time to do so. That motion was dismissed by Roulou J.A. on March 5, 2026, leading to the second costs award outlined above.
- [12] After the Bezaire J. costs award but before the Roulou J.A. costs award, the defendants said that they, "as a sign of good faith" would make an "initial payment of \$1,750" followed by "monthly payments of \$300 thereafter against Her Honour's costs award." Despite this representation, nothing has been paid. Mr. Pollock asserts that the reason for the lack of any payment whatsoever was that the payment proposal was not accepted.
- [13] In a without prejudice correspondence dated March 10, 2026, the defendants then counsel, Mr. Wallace, said that his clients were "perilously close to insolvency" and raised the prospect of bankruptcy assignments by one or both defendants.
- [14] On April 18, 2026, the defendants offered to pay \$240 per month. The plaintiff rejected the proposal and requested evidence of the asserted inability to pay.

The Evidence on the Motion

- [15] Mr. Pollock's evidence is that he is unable to pay the costs due to "serious financial hardship, health issues, unemployment, disability income limits, debt default and the collapse of my financial circumstances during this litigation." He said that:
 - In May of 2024, he had to take time off work following ongoing health issues and to "dedicate time to responding to this litigation";
 - He had been "threatened at work due to my political involvement in an NDP federal election campaign";
 - He received "notices from Spero Law concerning unpaid legal fees and potential loss of representation"; and
 - His "car insurance had been cancelled due to non-payment."
- [16] Mr. Pollock claimed that his income was limited and "is capped to approximately \$1,262 per month in disability related income."
- [17] Mr. Pollock filed tax returns showing an income of \$51,947 in 2023, \$32,634 in 2024 and \$15,335 in 2025.

[18] The plaintiff filed an affidavit saying that she has followed the defendant's social media accounts to monitor the conduct that gave rise to this action. She outlined her observations of those accounts, including the following:

1. During the course of the litigation, Mr. Pollock has publicly posted about his patronage of Casino Windsor. He has identified himself as a Seven Star Diamond member of the Caesars Rewards loyalty program. Screen captures of some of the posts showing photos of Mr. Pollock in the VIP section and accommodations at Caesars are dated March and April 2025.
2. Mr. Pollock launched and ran a campaign for election to Windsor City Council representing Ward 2 in October of 2025. Screen captures of some of his posts reference campaign funding and expenses. In one of the posts, there is a picture of a large doll with the caption "\$1,000? How can I make this a campaign expense? Lmao"
3. Mr. Pollock has publicly identified his occupation as "sales and social media marketing." He has publicly posted about accepting paid collaborations through his @MadeInYQG account, including a statement on Reddit that he has "accepted paid collaborations from larger organizations on a few rare occasions." He said these were situations where he "offered to work for free and they insisted on compensating me or where I agreed to use the funds provided to run giveaways..." These posts were in October of 2025.
4. Postings in the fall of 2025 showed Mr. Pollock at the Windsor Filmfest, dining out at numerous restaurants, and checking into AirBnBs.
5. In March of 2024, Mr. Pollock appeared as a guest on a Bloom Podcast hosted by Tracey Marteens. In that interview, he spoke of: his patronage of Casino Windsor; his online business selling video game currency saying he had "made a living playing video games"; "looking at a growing PayPal account"; "gambling high limit at the casino all the time". Mr. Pollock referenced winning \$6,000 with the cash being delivered by security escort. He said for a period of time he lived at the Casino.

[19] Mr. Pollock did provide screenshots of some monthly summaries of a bank account with RBC. Those screenshots did not include information on transactions. Rather, they provided only total debits and total credits. Mr. Pollock claimed he was unable to pay his bills, but he did not provide a credit report.

Legal Principles

[20] The overriding principle is articulated by the Ontario Court of Appeal in *Garrett v. Oldfield*, 2016 ONCA 424, at para. 2, leave to appeal refused, [2016] S.C.C.A. No. 350:

Rule 57.03(2) provides the court with the discretion to dismiss a plaintiff's action for failure to pay a costs order. In determining whether an action

should be dismissed, a court must balance the competing interests of the parties and consider all relevant factors: see *Tarion Warranty Corp. v. 1486448 Ontario Inc.*, 2012 ONCA 288.

- [21] In *Tarion*, impecuniosity of the party required to pay costs was in issue. The motion judge struck the statement of defence, finding that impecuniosity was not an excuse for non-payment of costs. The Court of Appeal reinstated the statement of defence and gave the defendant time to pay, while setting out the proper approach to the issue, at para. 6 :

In our view, the motion judge erred in law by interpreting *Burrell v. Peel (Regional Municipality) Police Services Board* (2007), 48 C.P.C. (6th) 349 (Ont. Master), as standing for the proposition that impecuniosity is not a relevant factor in determining the consequences of a party's failure to pay a costs order. As Master Dash makes clear, while standing alone, lack of funds cannot justify a failure to pay costs, evidence of impecuniosity is a factor to take into consideration. As is always the case when there are competing interests, the goal is to strike a balance. Here, the competing interests are allowing an impecunious litigant the opportunity to have his or her potentially meritorious claim adjudicated upon, and enforcing court orders. See also *Augier v. O'Reilly*, 2011 ONSC 4583, [2011] O.J. No. 3468, at para. 20.

- [22] Relevant factors to consider on a motion under r. 57.03(2) were set out by Associate Justice Robinson in *Allen v. Kumar*, 2022 ONSC 4223, at para. 11, aff'd by 2023 ONSC 6239 (Div. Ct.):
- a. The court must be alive to the possibility that non-compliance with court orders is indicative of its process being abused. Failing to act may deprive the moving party of justice according to law and risks rendering the court “a paper tiger”;
 - b. A litigant's right of access to the courts must be accompanied by the responsibility to abide by the *Rules* and comply with court orders. Exempting impecunious parties from enforcing costs orders may amount to granting “carte blanche” to continue to ignore rules and orders and take unsupportable steps in the action without fear of consequences;
 - c. Where a party had the opportunity to make submissions about impecuniosity at the prior hearings leading to the costs order(s), subsequently seeking to relieve against payment of those costs constitutes a collateral attack on the prior orders;
 - d. The court may consider a pattern of unnecessary and unreasonable steps taken in the proceeding, including appealing numerous orders without chance of success or knowing the risk of an adverse costs order;

- e. If court orders are cavalierly ignored and if a litigant continuously fails to comply with their obligations as a litigant and then fails to abide by the costs consequences of that behaviour, the court is justified in bringing some finality to the action;
- f. Impecuniosity is not a shield for unreasonable conduct of litigation and a dismissal order may be made even if it resolves the matter on procedural rather than substantive grounds;
- g. Self-represented litigants, while entitled to some accommodation and assistance to ensure a fair hearing, are not entitled to abuse the system or the party opposite. Failure to enforce orders once made against self-represented parties is unfair to the parties opposite and undermines respect for the court and the civil justice system; and
- h. At some point, costs themselves become an inadequate form of compensation for prejudice, especially where the party on whom they are imposed refuses to pay them.

[23] Mr. Pollock was represented by counsel at the time both costs orders were made. He is now self-represented.

[24] I have reviewed the defendants' written submissions on costs that were filed on the direction of Bezaire J. in the motion before her. Those submissions do not include any reference to impecuniosity of the defendants and particularly of Mr. Pollock.

[25] In *Mositano v. Gordon*, 2023 ONSC 5587, the defendants sought an order for security for costs. The defendants claimed impecuniosity. Bordin J. discussed the evidence required, at paras. 44-45:

A litigant who relies on impecuniosity bears the onus of proof on this point and must do more than adduce some evidence of impecuniosity and must satisfy the court that he or she is genuinely impecunious with full and frank disclosure of his or her financial circumstances and his or her incapacity to raise the security. There is a high evidentiary burden to demonstrate impecuniosity, and if full disclosure is not made, impecuniosity will not be a factor in the exercise of the court's discretion: *Chill Media*, para. 12 and authorities cited therein.

Bald statements of impecuniosity unsupported by detail are not sufficient. The threshold can only be reached by tendering complete and accurate disclosure of the plaintiff's income, assets, expenses, liabilities and borrowing ability, with full supporting documentation for each category where available or an explanation where not available: *Coastline*, para. 7 and the authorities cited therein.

Discussion

- [26] Mr. Pollock's online activity is inconsistent with impecuniosity. In viewing his social media posts, it appears that Mr. Pollock has the ability to generate funds when he chooses to. His online content discloses a lifestyle that is inconsistent with the income disclosed in his tax returns and the limited banking information provided. There were no credit card statements provided, nor was there a statement of assets and debts provided.
- [27] I turn to address the relevant factors set out in the caselaw:
1. Mr. Pollock's reliance on impecuniosity when he failed to raise the issue of impecuniosity in his cost submissions before Bezaire J. amounts to a collateral attack on her costs order.
 2. Mr. Pollock was represented at the time of the motion before Bezaire J. and at the time of the motion for an extension of time to bring the appeal and so must have been aware of the risk of an adverse costs award.
 3. The lack of any payment whatsoever towards the costs award in the face of a promise to pay \$1,750 followed by \$300 per month displays a cavalier attitude toward the costs orders.
 4. Complete and accurate disclosure of Mr. Pollock's financial circumstances was not provided and the information that was provided was inconsistent with his online representations.
- [28] Mr. Pollock cannot be relieved of his obligation to pay the costs ordered. His only offer of \$240 per month is wholly inadequate given the amount owing.
- [29] My disposition of this motion must consider the competing interests of both sides. On a balance of those interests, it is my view that Mr. Pollock ought to be given 60 days to pay the costs awards in full failing which the plaintiff may move, without notice to the defendant, for an order striking the defence.
- [30] The plaintiff filed a costs outline for this motion showing substantial indemnity costs of \$10,900 and partial indemnity costs of \$7,266. The amounts are high for a motion on an ordinary Tuesday list, but the materials were lengthy and the case law thoroughly researched. I set the amount at \$5,000 but I do not include those costs in the total that must be paid within 60 days.

Disposition

- [31] For these reasons I make the following order:
1. The defendant, Jake Pollock, also known as Jake Kelza, shall have 60 days from the release of this ruling to pay to the plaintiff the full amount of costs owing at the time the motion was heard, namely \$22,250.

2. If those costs are not paid, the plaintiff may move, without notice to the defendants, for an order striking the statement of defence.
3. The defendant, Mr. Pollock, shall pay the costs of this motion to the plaintiff fixed at \$5,000.

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Pamela L. Hebner
Justice

Released: June 11, 2026

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COURT FILE NO.: CV-24-33433
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