

SUPERIOR COURT

(Commercial Division)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-11-062330-234

DATE: June 16, 2026

BY THE HONOURABLE KAREN M. ROGERS, J.S.C.

BRIAN LUDMER
Applicant

v.

IRVING LUDMER
Respondent

and

3488055 CANADA INC.

and

IRVING LUDMER FAMILY FOUNDATION

and

**THE DIRECTOR APPOINTED BY THE MINISTER PURSUANT TO SECTION 260 OF
THE CANADA BUSINESS CORPORATIONS ACT**

Impleaded Parties

JUDGMENT

[1] On January 27, 2026, the Superior Court dismissed Brian Ludmer's *Further Modified Application to Court re oppression, including winding-up* brought against his father, Irving Ludmer (**Irving**). In essence, Brian Ludmer (**Brian**) sought to become

owner of the assets of 3488055 Canada Inc. (**055**) through a wind-up strategy and to have certain donations made to the Irving Ludmer Family Foundation (**Foundation**) annulled; (**Bisson Judgment**).

[2] The value of the assets at issue is approximately 12.6 million dollars.

[3] Irving was a successful businessman who is actively involved in philanthropic endeavours through the Foundation. While a full historical account of the facts is not necessary, it is useful for context to note that 055 was incorporated in the late 1990s as part of Irving's estate planning objectives, which began in 1971. He created a CBCA corporation for each of his three children, with 055 corresponding to Brian.

[4] Brian holds three classes of shares in 055, including equity shares and a minority of voting shares, whereas Irving holds the majority of the voting shares. Since 2004, Irving has been the sole director of 055.

[5] The trial lasted five days, the first four days were devoted to the presentation of Brian's evidence. Irving presented no witnesses and limited his evidence to documents that he produced. The fifth day was reserved for oral arguments.

[6] At the time of trial, Brian was 65 years old, and Irving was 90 years old.

[7] At the outset of trial, Brian brought an oral motion to have IMK removed as counsel for 055, which motion was dismissed.

[8] IMK acted for Irving and 055 during the trial and throughout the whole file. Both parties brought oral motions alleging abuse on the part of the other party.

[9] In this highly contentious matter, the Bisson Judgment dismissed Brian's motion for abuse but granted Irving's motion on the basis of article 51 and following of the C.C.P. As a result, the Court ordered Brian to pay Irving's extrajudicial fees and referred the determination of the quantum of these fees to a later hearing.

[10] This judgment follows the hearing on the determination of those extrajudicial fees.

[11] It is of note that Brian has been a practicing attorney and member of the Ontario Bar since 1987. He practiced commercial and family law, notably at major Bay Street law firms.

[12] Justice Bisson used strong and unequivocal language in characterizing Brian's conduct in these proceedings, finding that it constituted an abuse of process. By way of illustration, the Court reproduces a selection of passages from the Bisson Judgment in which Justice Bisson describes the nature and extent of Brian's abuse of process:

[258] Indeed, in the Court's view, there are multiple layers to Brian's abuse of process in this case. To succeed on his oppression claim, Brian effectively asked this Court to :

- Disregard the binding findings of the Court of Appeal rendered in 2009, which conclusively established a long-standing dynamic between the parties that has prevailed for decades;
- Set aside a detailed and reasoned decision of this Court which already ruled on a similar oppression claim involving David with substantially the same allegations, seeking essentially the same remedy, and arising from the same corporate structure and essentially the same corporate documents; and
- accept Brian's current position in this proceeding, which stands in direct contradiction to the arguments and representations he deliberately advanced in his divorce litigation in Ontario more than a decade ago, when those positions served his interests.

[259] Here, the recourse of Brian was manifestly unfounded, and it was an act of "témérité" in the sense that no reasonable person, placed in the same circumstances, would not have commenced them, having concluded that the action had no real chance of success.

...

[268] A reasonable litigant in the same circumstances would not have commenced Brian's oppression action. By insisting on pursuing his claim despite the above elements, the Court concludes that Brian is abusing the justice system.

[269] Worse yet, Brian's behaviour at trial revealed an intention to pursue a campaign of vindictive litigation against his father Irving through an instrumentalization of the justice system, as evidenced by Brian's admission that he will be "litigating perpetually until I get my money." In his cross-examination of his 90-year-old father, Brian confirmed his intent to "litigate what I assert my rights are fiercely and to the end of time."

[270] The Court concludes that, taken as a whole, Brian's conduct undermines the integrity of the judicial system and requires a firm response. A clear and unequivocal message must be sent to deter such conduct.

[13] He concludes as follows in his analysis of Brian's abusive conduct:

[271] As a result, the Court will declare that the whole *Further Modified Application to Court re oppression, including winding-up* of Brian and the trial of January 12 to 16, 2025, are abusive under Art. 51 and ff. CCP. The

Court will also condemn Brian to pay to Irving the attorneys extrajudicial fees of Irving, the amount of which will be determined in a further hearing before a new judge. The delay to pay will also be determined in this eventual hearing. The Court is of the opinion that the attorneys' fees of Irving are a damage directly caused by Brian's abuse.

[14] Ultimately, with respect to Irving's motion for abuse, the Bisson Judgment orders as follows:

...

[280] DECLARES that the whole Further Modified Application to Court re oppression, including winding-up of Applicant Brian Ludmer, dated January 10, 2026, and the trial of January 12 to 16, 2026, are abusive under Art. 51 and ff. CCP;

[281] CONDEMNS Applicant Brian Ludmer to pay to Respondent Irving Ludmer the attorneys extrajudicial fees of Irving Ludmer, the amount of which will be determined in a further hearing before a new Judge,

...

[15] The Court is seized of Irving's application, in which he seeks to recover from Brian a total amount of \$ 280,553.10, representing the extrajudicial fees incurred by Irving during the proceedings in this matter.

[16] Brian has appealed the Bisson Judgment, but the conclusions at issue are provisionally executed as of right, as it adjudicates on an abuse procedure.¹

[17] In order to schedule the hearing regarding the extrajudicial fees, Justice Sheehan had to intervene after Brian sent him a letter requesting a full day to present his case and wanting all the exhibits and transcripts of the trial to be made available to the Judge hearing the matter.

[18] Justice Sheehan limited Brian's argument to one hour and thirty minutes, concluding that "...His letter highlights an attempt to relitigate the abuse judgment which is clearly not the scope of the Extra-Judicial Fee Application. In fact, Brian seems to adopt the same behaviour that led to the abuse finding in the first place."²

[19] It is also noteworthy that, on June 5th 2026, Brian writes to IMK and states twice in the letter that "your client will never see a nickel of the cost award."³ Furthermore, before justice Bisson, Brian testifies that if 055 were not ordered to be wound up, "he

¹ Article 660(10) C.C.P.

² Minute of the March 19, 2026, hearing in the Court record.

³ Letter of June 5, 2026, to Douglas Mitchell from IMK.

will litigate for the rest of his life actively. As Your Honour sees, I'm fully capable of it."⁴ ... "I will be back... and back...and back...forever."⁵

[20] With respect to Me Mitchell, Brian testified before Justice Bisson as follows:

... Your Honour doesn't know me very well, but you're kind of seeing what I'm capable of, and I'm prepared to do it. I will wage this war right through to this end, and there is no measure of the ferocity and intensity with which I will wage this war against him, against Mr. Mitchell, until I get independent governance of my company....⁶

[21] Since trial, Brian has sent Me Mitchell from IMK twelve letters, which include various accusations and a lot of venting.⁷

1.1 CONCLUSION

[22] At stake in the litigation are high-value assets and the control of these assets. Except for the requirement for 055 to provide annual financial statements, the Bisson Judgment dismissed Brian's lawsuit against Irving and 055.

[23] The Court must review the invoices rigorously in order to determine if there is overbidding, exaggerated hourly rates or time entries, and adjust the fees if necessary. The Court assessment of the reasonableness of the extrajudicial fees must be made in context and in accordance with the teachings of the Court of Appeal in *Groupe Van Houtte inc. (A.L. Van Houtte ltée) c. Développements industriels et commerciaux de Montréal inc.*⁸

[24] The Court reviewed IMK's invoices in this matter, with particular attention to the time entries in relation to the matter litigated and the outcome of the trial. The Court observes the following:

- The hourly rates of the attorneys at IMK who worked on the file are reasonable.
- There is no over-staffing of the file.
- Work is assigned to avoid the duplication of work.
- There is no overbidding or exaggeration in the billing.

⁴ Exhibit AR-3 page 26 lines 1 to 25.

⁵ Exhibit AR-3 page 27 lines 1 to 5.

⁶ Exhibit AR-3 page 52 line 5-15.

⁷ Exhibit AR-4.

⁸ 2010 QCCA 1970.

[25] Brian submitted to the Court over 800 pages of material and raised various issues that he argued should cause the Court to reduce the extrajudicial fees awarded.

[26] He also asked the Court to impose a punitive sanction of at least \$ 75,000 on Irving, given his submission that Irving was incapable of signing an affidavit under oath in May 2023 but nonetheless did so. Brian asks that this punitive sanction be applied against any fees owed by Brian under this judgment.

[27] Ultimately, for the reasons set forth below, the Court condemns Brian to pay the extrajudicial fees claimed less a charge of \$ 502.50,⁹ which appears in the September 2024 invoice without any relating time entry.¹⁰ This amount should be paid within 15 days of this judgment.

1.2 Legal principles

[28] Article 54 C.C.P. states:

54. On ruling on whether a judicial application or pleading, including one presented under this division, is abusive, the court may order a provision for costs to be reimbursed, order a party to pay, in addition to legal costs, damages for any injury suffered by another party, including to cover the professional fees and disbursements incurred by that other party, or award punitive damages if warranted by the circumstances.

In family matters, in addition to any other order that it may issue under the first paragraph, the court, when declaring that an application or a pleading is abusive, orders the party that initiated the application or pleading to pay damages to cover the professional fees and disbursements incurred by the other party.

If the amount of the damages is not admitted or cannot be easily calculated at the time the application or pleading is declared abusive, the court may summarily determine the amount within the time and subject to the conditions it specifies or, in the case of the Court of Appeal, refer the matter back to the court of first instance for a decision.

[29] In *Groupe Vanhoutte inc. (A.L. Van Houtte Itée) c. Développements industriels et commerciaux de Montréal inc.*, recently cited in a decision by the Superior Court¹¹, the Court of Appeal sets out the criteria that must be applied in order to determine the extrajudicial fees that must be paid:

⁹ Applicable sales taxes will be added to the amount deducted.

¹⁰ Exhibit AR-2.

¹¹ *Besner vs. Besner* 2026 QCCS 564, par 115 to 118.

[124] [...] Les facteurs suivants peuvent notamment être considérés pour évaluer le caractère raisonnable de la réclamation : importance et difficulté du litige, temps qu'il était nécessaire d'y consacrer, mais aussi façon dont l'instance a été menée par la partie qui réclame le remboursement de ses honoraires extrajudiciaires (y compris en rapport avec l'utilité ou la pertinence des procédures), ainsi que la raisonnable intrinsèque du taux horaire de l'avocat de cette partie ou du montant facturé, selon la formule convenue avec le client, pour assurer sa représentation dans l'instance. Il faut aussi, bien sûr, examiner la proportionnalité des honoraires réclamés au regard de la condamnation prononcée et l'ensemble du contexte.

[125] Ce contrôle judiciaire doit être exercé de façon rigoureuse, il va sans dire, pour éviter la surenchère de services juridiques ou de procédures ou l'exagération dans la fixation du taux ou du montant de la facturation, surenchère ou exagération qui pourraient résulter de la perspective que les honoraires d'avocat d'une partie soit payée par l'autre. Il va sans dire également que la partie qui réclame le remboursement de ses honoraires extrajudiciaires doit s'attendre et consent implicitement à lever une partie du secret professionnel qui l'unit à son avocat, dans la mesure nécessaire à la vérification du caractère raisonnable des honoraires en question.

(Références omises)

1.3 Discussion

[30] The issues in dispute and the amounts at stake in the matter decided by the Bisson Judgment are significant.

[31] Brian's lawsuit against Irving, filed in May 2023, is complex due to the subject matter, Brian's conduct and combative nature, the timeline (spanned over 50 years) and the sheer number of exhibits, affidavits, discoveries and issues involved.

[32] As Justice Bisson stated, Brian is using the judicial system to pursue a campaign of vindictive litigation against Irving. This complexity, combined with Brian's long arguments, has at times made it difficult to discern or anticipate the direction of his submissions.

[33] His opponents are therefore required to remain particularly vigilant in order to follow his reasoning, respond appropriately, and, where necessary, correct the record. Brian also displays a highly adversarial attitude and is very active in this file.

[34] As such, IMK must ensure that it is able to defend Irving and 055 when faced with an unpredictable opponent who has effectively waged a war against their client and is prepared to litigate for the rest of his life.

[35] IMK's attorneys were required to invest considerable time and energy to counter Brian's numerous claims and arguments.

[36] These dynamics characterize the present file.

[37] At trial before Justice Bisson, Brian produced over 123 exhibits and nine "very long" affidavits.¹² The first four days of trial were devoted to his evidence. Irving called no witnesses in defence and produced 15 exhibits.¹³

[38] In the context of the application for extrajudicial fees, Douglas Mitchell and Me Bianca Annie Marcelin from IMK represented Irving, while Brian represented himself. All three lawyers were present at trial.

[39] Irving filed the following in support of his claim for extrajudicial fees:

- IMK's invoices for the legal services covering the period from March 2024 to the last day of trial before Justice Bisson, January 16, 2026;¹⁴
- Certain excerpts of the trial record illustrating Brian's conduct;¹⁵
- The twelve letters sent by Brian to IMK following the trial;¹⁶
- Minutes of certain hearings;¹⁷
- Trial minutes and Brian's letter of June 5, 2026, to Me Douglas Mitchell.

[40] Brian, for his part, produced documents totalling close to 800 pages, including:

- Documents demonstrating that Irving relied on the proceedings of his brother David, who had a similar claim and whose trial proceeded before Justice Garin;
- Documents confirming Irving's position that Brian had no rights in 055 and that Irving maintains sole discretionary authority with respect to 055;
- Proceedings before the Court of Appeal in which Brian seeks to overturn the Bisson Judgment;
- Proceedings before Justice Collier in December 2024;

¹² Bisson Judgment paragraph 7 and footnote 2.

¹³ Bisson Judgment paragraph 7 and footnote 2.

¹⁴ Exhibit AR-2.

¹⁵ Exhibit AR-3.

¹⁶ Exhibit AR-4.

¹⁷ Exhibits AR-5, AR-6 and Ar-7.

- Subpoenas and materials relating to documents Irving refused to produce;
- The cross-application was abandoned on the first day of trial;
- Pre-trial examinations;
- A key evidence Summary chart referring to the evidence.

[41] Justice Bisson found that the Application itself filed in May 2023, as well as the ensuing trial, were abusive. IMK's trial preparation began in November 2025 when Me Marcelin and Me Redko began working with Me Mitchell. The Court will therefore address the period before November 2025 separately from the period covering trial preparation and the trial itself.

1.3.1 Period prior to November 2025

[42] It should be noted that concurrently, IMK was representing Irving in two parallel proceedings in which Brian was asserting claims against Irving. As such, following the Bisson Judgment and for the purposes of the present application for the extrajudicial fees, IMK reviewed all invoices to ensure that Irving seeks recovery only for fees attributable to the present matter.¹⁸

[43] Although Brian instituted these proceedings in May 2023, and IMK appeared at the outset, Irving does not claim legal fees for the period going from May 2023 to February 2024 inclusively.

[44] Me Douglas Mitchell acted as lead counsel throughout the file. His hourly rate was 775\$ and remained unchanged for the duration of the file.¹⁹

[45] Given Me Mitchell's experience and expertise, the hourly rate charged is more than reasonable.

[46] The Court is mindful of the fact that Justice Bisson found that the institution of the recourse by Brian against Irving constituted an act of "témérité" and Brian was on a campaign of vindictive litigation against his father through the instrumentalization of the judicial system.

[47] During this period, Me Mitchell delegated certain tasks to a more junior attorney, Me Alexandre Thibault, whose hourly rate was \$ 335.

¹⁸ Me Bianca Annie Marcelin's representations before the Court.

¹⁹ Exhibit AR-2.

[48] Brian argues that Me Thibault replaced Me Redko in March 2024, and this caused “onboarding fees”. The Court, upon its review of the invoices, does not observe any unreasonable charges or a duplication of work.

[49] In fact, during this period, there is a single time entry in March 2024 by Me Olga Redko of 0.4 hours relating to a discussion she had with Me Thibault, but there is no corresponding entry by Me Thibault’s part.²⁰ There are no prior time entries by Me Redko. As such, there is clearly no duplications.

[50] Overall, Me Mitchell appears to be mindful of ensuring reasonable and accurate billing. He invoiced his client diligently and handled the file himself for several months without significant implication of a junior attorney.

[51] During this period, Me Thibault was assigned specific tasks, and his time entries are reasonable. His involvement reflects an efficient allocation of work, allowing certain tasks to be completed at a lower rate than Me Mitchell’s.

[52] When Me Thibault prepared examinations or hearings, he, at times, attended the examination and hearing alongside Me Mitchell. This is neither unreasonable or unusual in a complex litigation file to have a junior attorney present at examinations, particularly where numerous issues are contested and required careful documentation and follow-up.²¹

[53] Brian argues that IMK’s fees should be reduced on the basis that IMK also represented Irving in his brother’s oppression remedy, which he asserts was similar.

[54] Before Justice Bisson, Brian, however, argued that his reasonable expectations differed from those of his brother. In any event, competent counsel must prepare for a case to be tried. A review of the invoices does not lead the Court to conclude that IMK’s billing is unreasonable.

²⁰ Exhibit AR-2 invoice 49979 pages 2 and 3.

²¹ In April 2024, Me Thibault assisted Me Mitchell with the preparation of the examinations of Brian and Irving. For this purpose, he drafted notes, reviewed the file, prepared key messages and attended the meeting with Irving along side Me Mitchell and attended the examinations. The fees for Me Thibault’s time is \$ 9,882.50 - Exhibit AR-2 invoice 50203 pages 6-8; Me Thibault conducts a research in the file in June 2024 and \$ 228.00 of fees are invoiced to Irving for his time- invoice 50614 page 15-16. In August 2024, Me Thibault is tasked with setting a hearing and exchanging with Brian for that purpose. He attends Court. In all \$502.50 of fees are charged to Irving- invoice 50984 pages 23-34. In November and December 2024, Me Thibault does research for a hearing and attends the hearing alongside Me Mitchell. His invoiced fees are \$ 4,790.50- invoice 51572 pages 31-32 In February 2025, Me Thibault takes half an hour to review documents sent by Brian and speak with Me Mitchell with respect to setting down a date for trial. His fees are \$ 301.50- invoice 51183 pages 27-28; In February 2025, Me Thibault takes half an hour to review documents sent by Brian and speak with Me Mitchell with respect to setting down a date for trial. His fees are \$ 301.50- invoice 52206 page 39 and 40. In April 2025, Me Thibault reviews a letter and drafts an e-mail which costs Irving \$ 100.50 in fees-Invoice 52645 page 48;

[55] Brian further argues that a punitive sanction of at least \$ 75,000 should be imposed on Irving in his favour, on the basis that Irving signed affidavits, particularly the one dated May 2023, which serves as Irving's contestation,²² despite allegedly lacking the capacity to swear to their contents.

[56] This submission of Brian's is unfounded and speculative, resting on Brian's interpretation of the Bisson Judgment and on a pre-trial examination and is not supported by any evidence. Neither does Justice Bisson confirm Brian's interpretation.

[57] In fact, Justice Bisson concludes in the Bisson Judgment that he cannot rely on Irving's testimony at trial in 2026 but adds that "the Court...has to look at his previous testimonies (which are in evidence) and documents."²³

[58] As to the pre-trial examination, Brian is asking the Court to read 250 pages of stenographic notes of Irving's examination held on April 12, 2024, as he submits it will confirm Irving's incapacity to swear as to the contents of affidavits filed, including the May 2023 one.²⁴

[59] Firstly, the Court cannot draw such a conclusion based on the pre-trial examination, particularly one that was difficult to follow due to the numerous interruptions of the witness. It is, however, somewhat ironic that the stenographic notes contain an excerpt in which Brian asks Irving's lawyer if he would agree to have Irving answer a series of questions by affidavit, following the examination and after having reviewed a specific Quebec Court of Appeal decision.²⁵

[60] As such, in April 2024, Brian considered Irving capable of signing an affidavit under oath to attest to its content.

[61] Brian's motion for abuse against Irving was dismissed. The Court is not tasked with deciding on punitive sanctions against Irving but, rather, to determine the extrajudicial fees payable by Brian.

[62] The only issue found with IMK's invoices is in September 2024. A charge of \$ 502.50 appears for Me Thibault without a corresponding time entry. Accordingly, the Court will deduct this amount, plus the applicable sales tax, from the overall claim.²⁶

²² Justice Sheehan's judgment January 12, 2024, in file 500-11-062330-234.

²³ Paragraph 57 of the Bisson Judgment.

²⁴ Exhibit G-20 of Applicant's abbreviated Book of Exhibits for costs adjudication.

²⁵ Exhibit C-20 of the Applicant's book, page 150 of the notes, 535 of the booklet, lines 8 to 20.

²⁶ Exhibit AR-2 Invoice 51183 page 28; total with sales tax \$ 577.75.

[63] In line with the teachings of the Court of Appeal, the Court finds that during this period the amount invoiced, the lawyers' hourly rates and the time spent by IMK on this file to be reasonable and commensurate with its complexity.

1.3.2 Trial preparation and trial period

[64] Brian filed seven very long affidavits,²⁷ and his proceeding was very similar to his brother's oppressive proceeding against Irving, which was dismissed by Justice Garin on January 30, 2023.

[65] The Court cannot rely on Brian's plan of argument, as it frequently contains inaccurate statements regarding the evidence and the Bisson Judgment.²⁸

[66] During this period, the Court also finds IMK's time entries are reasonable, and that the management of the work performed by counsel was efficient and appropriate, without duplication.

[67] For the trial preparation and the trial, three attorneys from IMK formed part of the defence team representing Irving: Me Douglas Mitchell, Me Olga Redko and Me Bianca Annie Marcelin.

[68] Me Marcelin's hourly rate was \$ 300, whereas Me Redko's hourly rate was \$ 375.

[69] The time entries in the invoices demonstrate that Me Redko and Me Marcelin assumed distinct responsibilities during trial preparation. Each was tasked with specific aspects of the preparation and with drafting different portions of the argument plan to be presented to the Judge.

[70] While they held meetings, which are necessary in advance of trial, the number and duration of these meetings were not unreasonable. There is no evidence of excess.

[71] Any competent lawyer preparing a trial, particularly in a case involving significant amounts, would undertake thorough preparation.

[72] Contrary to Brian's submission, there does not appear to be any duplication of work between Me Thibault and Me Redko. Me Thibault's involvement was limited to

²⁷ Paragraph 7 of the Bisson Judgment and footnote 2.

²⁸ Example Brian asserts that he was successful before Justice Collier in December 2024. In fact, and although this point is of limited relevance, Justice Collier granted Irving's motion for direction. (C-13 of Brians Volume 1 of the Abbreviated book of exhibits). Brian also argued that Justice Bisson found Irving to be incapable, such that an affidavit signed in May 2023 was of no probative value on the basis that Irving lacked the capacity to swear it. This is incorrect. Justice Bisson made no such finding. Rather, he concluded that Irving's testimony at trial in 2026 was not useful, as he de not recall anything useful.

specific tasks, and his last “significant” contribution occurred in November -December 2024, in relation to the application for directives concerning the shareholders’ meeting.²⁹

[73] As mentioned above, Me Mitchell would go for several months without any significant involvement of a junior attorney. Obviously, Me Mitchell managed the file and directed the juniors on the file on their tasks to ensure efficiency and preparedness.

[74] Contrary to what Brian argued, the fact that Me Thibault assisted in preparing Brian’s examination in April 2024 does not mean that a junior colleague’s later review of the stenographic notes in November–December 2025, in preparation for trial, constituted a duplication of that earlier work.

[75] Even if Me Thibault had remained involved in the file, it is highly likely, if not inevitable, that Brian’s pre-trial examination would have been reviewed again. Such a review is important, even where the stenographic notes are not entered into evidence, particularly in order to address potential inconsistencies in a witness’s testimony at trial and to know what he is going to testify to.

[76] It is not duplicating work to assign junior counsel to review relevant material before trial and conduct research, as is suggested by Brian.

[77] As for the trial, the three lawyers attended all five days. The time entries indicate that they worked in the evenings to adjust their strategy, conduct research, and ensure readiness for the following day.

[78] The three lawyers, being at different levels of experience, carried out different tasks.

[79] The Court concludes that it was not unreasonable for the members of the defence team, who were actively involved in preparing the subsequent days of trial and the oral arguments, to be present at trial in order to follow the evidence, prepare for the following day and finalize their oral pleadings.

[80] Brian argues that the Court should deduct the fees of an application before Justice Collier concerning a motion for directions regarding 055 shareholders’ meeting. He submits that, because Irving allegedly lost, he should not have to pay the fees responsible for those fees. Brian’s assertion is incorrect. Justice Collier granted Irving’s application.³⁰ The matter before Justice Collier in December 2024 arose in the present file and concerned corporate issues of 055, notably the annual

²⁹ Exhibit AR-2.

³⁰ Example Brian indicates that he won before justice Collier in December 2024, but in fact, not that it is particularly relevant, the Judge granted Irving’s motion for direction. C-13 of Brians Volume 1 of the abbreviated book of exhibits.

shareholders' meeting. There was a disagreement between Irving and Brian regarding this meeting, and it was reasonable for Irving to seek direction.

[81] There are no arguments in Brian's plan or submitted to the Court during oral presentation that the Court retains.

[82] Given the Bisson Judgment, Brian should be condemned to pay Irving the sum of \$ 279,975.35, the amount claimed less \$ 577.75, the \$ 502.50 plus the applicable sales tax, and this within 15 days of this judgment.

FOR THESE REASONS, THE COURT, in furtherance to Justice Bisson's conclusions as to the abusive nature of Brian Ludmer's application and the trial:

GRANTS partially the Application for extrajudicial fees of the Respondent Irving Ludmer;

CONDEMNS the Applicant Brian Ludmer to pay the Respondent Irving Ludmer \$ 279,975.35 which represents the damages suffered by the Respondent Irving Ludmer as a result of the Applicant Brian Ludmer's abuse of procedure under article 51 of the Code of Civil Procedure;

ORDERS that he pay the said sum within 15 days of this Judgment, the whole with legal interest and the additional indemnity as of the 16 days from this judgment;

WITH COSTS against Brian Ludmer.

KAREN M. ROGERS, J.S.C.

Brian Ludmer, applicant, self represented

Me Douglas Mitchell

Me Bianca Annie Marcelin

IMK LLP

Attorneys representing the respondent Irving Ludmer and the impleaded party
3488055 Canada Inc.

Hearing date: June 11, 2026