

COURT OF QUÉBEC

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
“Civil Division”

No.: 500-22-282044-240

DATE: September 30, 2026

BY THE HONORABLE JUDGE MARTINE L. TREMBLAY, J.C.Q.

GOLDWATER DROIT INC. (formerly Goldwater, Dubé Inc.)

Plaintiff

v.

SHIRLEY ANDREA ESCOBAR HERNANDEZ

Defendant

JUDGMENT

[1] From September 27, 2019, to March 8, 2024, Plaintiff represented Defendant in the divorce proceedings initiated by Mr. G. on June 26, 2018. For this entire period, Plaintiff billed Defendant \$101,943.21 for fees, disbursements, and taxes. By this application, it is claiming the outstanding balance of \$20,136.74.

[2] Defendant essentially argues that all services rendered since November 2020 have no value since they never contributed to the meaningful progress of the matrimonial case. She also alleges that Plaintiff made an error by agreeing that the date on which the joint expert was to assess Mr. G.’s ownership interest in his companies should be June 30, 2018.

ISSUES

- 1) Were the invoiced services rendered?
- 2) Are the fees claimed fair and reasonable?
- 3) What is the applicable interest rate?
- 4) Should the Court declare that Defendant reserves her right to seek damages arising from Plaintiff's conduct?

ANALYSIS

1) **Were the invoiced services rendered?**

[3] Plaintiff filed the 46 invoices sent to Defendant during the term of its mandate¹. The outstanding invoices cover the period from November 23, 2022, to February 19, 2024². These invoices are unsigned writing used in the ordinary course of an enterprise and make proof of their content³.

[4] In addition to this simple presumption is the one provided for in section 127 of the Act respecting the Barreau du Québec⁴, which holds that a lawyer's testimony on his or her oath makes proof as to the request, nature, duration, and value of his or her services. Thus, in the absence of evidence to the contrary, Plaintiff's bills are sufficient to establish the accuracy of the effort it expended in defending Defendant's interests⁵.

[5] Defendant has offered no preponderant evidence to demonstrate⁶ that the services claimed (number of hours spent, fee rates, disbursements, etc.) are exaggerated or that the billing entries are inaccurate.

[6] Defendant testified that she had made a few comments regarding the increase in hourly rates over the years which are reflected in the various fee agreements she signed but the Court finds that she did not formally object to them in a timely manner.

¹ Exhibits P-4 and P-5.

² Exhibit P-2.

³ *Civil Code of Québec* (CCQ), Art. 2831.

⁴ RLRQ, c. B-1.

⁵ *Consortium Promecan Inc. (Trustee of)*, 2011 QCCA 1031, para. 22.

⁶ CCQ, Art. 2803 and 2804.

[7] The invoices are itemized. The tasks performed, the person who performed them, and the amount of fees charged for each are clearly stated. The Court therefore concludes that the services billed were indeed rendered by Plaintiff.

2) Are the fees claimed fair and reasonable?

[8] As stated by the Court of Appeal⁷, a lawyer has a duty of integrity and diligence toward his or her client⁸. He or she must avoid performing or multiplying professional acts⁹ without sufficient reason, and his or her fees will be considered fair and reasonable if they take into account the following factors¹⁰:

- (1) the lawyer's experience;
- (2) the time and effort required and devoted to the matter;
- (3) the difficulty of the matter;
- (4) the importance of the matter to the client;
- (5) the responsibility assumed;
- (6) the performance of unusual professional services or professional services requiring special skills or exceptional speed;
- (7) the result obtained;
- (8) the fees prescribed by statute or regulation; and
- (9) the disbursements, fees, commissions, rebates, costs, or other benefits that are or will be paid by a third party in connection with the mandate the client gave him.

[9] The attorney in charge of the case for Plaintiff and Defendant's primary point of contact, Me Jeffry Awwad was, at all times relevant to the litigation, a family law attorney admitted to the Barreau du Québec in 2015. His hourly rate has varied over the years, as provided for in the fee agreements¹¹, ranging from \$265 in 2018 to \$405 in 2024. On occasion, and to limit Defendant's legal fees, Me Awwad delegated certain tasks to articling students or junior attorneys. The Court finds the hourly rates reasonable.

⁷ *Consortium Promecan Inc. (Trustee of)*, 2011 QCCA 1031, para. 21.

⁸ *Code of Professional Conduct of Lawyers*, RLRQ, c. B-1, Rule 3.1 ("Code of Conduct"), Art. 20.

⁹ *Code of Conduct*, Art. 35.

¹⁰ *Code of Conduct*, Art. 101 and 102.

¹¹ Exhibits P-1 and P-3.

[10] Furthermore, Me Awwad testified that he reviewed each invoice before sending it to Defendant. He demonstrated that several phone conversations and text message exchanges were not automatically billed. He chose to cut his own time rather than that of the articling students or attorneys working with him on the case. In short, the invoices are not simply the result of a straightforward calculation.

[11] He declared, and this was not disputed, that Defendant preferred to discuss the case with him because, unlike his colleagues, he spoke Spanish. The conversations were also lengthy, and he mentioned several times to Defendant that he could not offer her psychosocial support and that she could find a professional to do so who would cost her much less even if he did not bill her for all his time.

[12] The billing statements, Me Awwad's testimony, a review of the court docket¹², the court records and judgments¹³, and the testimony of Mr. G.'s attorney provided at Defendant's request, though very limited due to rules protecting attorney-client privilege, confirm that Me Awwad had to manage a particularly complex and difficult situation.

[13] Finally, justice Edwards's judgment of November 5, 2025,¹⁴ on Mr. G.'s incidental proceedings in the divorce file¹⁵ allows the Court to observe the complexity of the case and the results achieved by Me Awwad¹⁶ and to take note of Defendant's testimony before justice Edwards regarding the services rendered by Me Awwad in connection with the negotiation of *the Interim Consent to Judgment* of November 27, 2020¹⁷:

[78] Moreover, the defendant does not criticize the professional representation provided by her former law firm, Goldwater Dubé, or the attorney who represented her. In fact, she made positive comments about him and his representation in her testimony.

[14] In summary, the only issues the Court must address in determining whether the fees claimed are fair and reasonable are those raised by the Defendant, who sought to establish:

- a) That Plaintiff had indicated that its fees would be approximately \$20,000 and that they would be paid by Mr. G.; and

¹² Exhibit P-13.

¹³ Exhibits P-14 through P-22.

¹⁴ Exhibit P-24.

¹⁵ *Application to cancel child support arrears and issue protective orders* (September 23, 2024) and *Application to cancel child support, cancel spousal support, and authorize the sale of the former family residence* (September 22, 2023).

¹⁶ This judgment, which is otherwise highly critical of the Defendant, estimates at \$1,091,580 the amounts received by the defendant from Mr. G. in various forms of payment under the terms of the *Interim Consent to Judgment* of November 2020, Exhibit D-2, over a period of 5 years.

¹⁷ Exhibit D-2.

- b) That the services rendered after November 2020 were of no use, since they did not advance the case in a way that would lead to a trial to finally settle the financial consequences arising from the divorce.

[15] For the following reasons, these two means of contestation are dismissed, and therefore Plaintiff's fees are fair and reasonable.

A) The Amount and Liability for Payment of Fees

[16] With regard to the assessment of the cost of services at \$20,000, the Court accepts the testimony of Me Awwad, who states that he explained to Defendant the difficulty of determining the amount of the fees, as these depended on the time spent on the case, which itself could vary depending on the responsiveness and cooperation of the opposing party. He may have mentioned the amount of \$20,000 as a minimum, but it was in this context. He also acknowledges having explained to her the concept provision for costs, given the significant disparity in the parties' financial means, without, however, presenting it as a guarantee that the fees would be limited to that amount.

[17] On the issue of attorneys' fees in family law matters, the Court adopts the remarks of justice Vaillancourt in *Goldwater, Dubé Inc. v. D. P.*¹⁸:

[50] In an ideal world, it would obviously be preferable for clients to be able to obtain an estimate of the foreseeable costs of their case. That they knew what they were getting into and could budget for the cost of the proceedings and the trial ahead. But it is true that in family matters—and probably even more so when parental time with respect to minor children is at stake—such an assessment of foreseeable fees is difficult to establish and could even, in most cases, be quite risky or foolhardy. This is also true in the field of youth protection, where the behavior of a third party (the Director of Youth Protection) can also be difficult to predict and may itself be dictated by events that will affect the children—events that may themselves be unpredictable.

[51] In family and youth protection cases, parents are often emotional, and emotions can run high. Unfortunately, it is not uncommon for them to make decisions based on emotion, and even to act unreasonably. For some, the dust settles, and they become reasonable again, limiting the cost of legal proceedings. But for others, there are no limits, and their decisions are dictated by their emotions rather than reason, for the duration of the proceedings and sometimes even longer.

[52] In these circumstances, it is often difficult for a lawyer to predict in advance the reaction of the opposing party (and even of his own client) and, consequently, to estimate the foreseeable amount of his fees. Even if it were possible to anticipate

¹⁸ 2025 QCCS 866.

the reaction of the opposing party, unforeseen circumstances often arise during the course of the proceedings. The lives of people who separate often change rapidly after the separation, and changes in the lives of both parents and children often have an impact on the proceedings.

[53] In such a context, the Court understands that it is difficult for a lawyer to provide, at the beginning of a retainer, an estimate of foreseeable fees in family and child protection matters. On the other hand, it is precisely in such a situation that it is imperative for the lawyer to keep the client regularly informed of changes in fees.

[18] In this case, Defendant was informed on an almost monthly basis of the services rendered and the fees charged by Plaintiff for those services¹⁹. Despite the fees reaching and exceeding \$20,000 which, according to Defendant, was the maximum amount she would have to pay, she never raised this argument or claimed that there had been an unacceptable overrun prior to the filing of this action. In fact, she had several opportunities to do so, notably during her communications with Plaintiff regarding the unpaid fees²⁰ and whom she accuses of being aggressive in seeking payment of her fees.

[19] Furthermore, on April 30, 2020, Defendant sent a text message to Me Awwad indicating that she was aware of how fees are calculated based on an hourly rate. She wrote²¹: *"I know you're gonna charge for watching these videos, but I don't care someone needs to know the truth and see the other side of the coin"* [exact reproduction].

[20] Defendant did not refuse to pay prior to her email of March 14, 2024²², from which the Court concludes that Defendant did not object at that time to the amount of the fees requested. Rather, she believed that the only person responsible for their payment was Mr. G.

[21] However, Mr. G. is not the signatory to the fee agreements. Rather, the email of March 14, 2024, confirms Me Awwad's testimony that he explained the concept of provision for costs to the Defendant.

[22] Moreover, *the Interim Consent to Judgment*²³ includes a specific section on the provision for costs. As for the *Second Interim Consent to Judgment*²⁴, it concerns only the legal fees incurred by the Defendant up to that point. It clearly states that Mr. G.'s

¹⁹ There were 46 invoices sent by email, Exhibits P-4 and P-5.

²⁰ Exhibits D-5 and P-23.

²¹ Exhibit D-2, p. 13.

²² Exhibit D-14.

²³ Exhibit D-3.

²⁴ Exhibit D-4.

payment of \$30,000 to Plaintiff in trust is an advance *“to be later accounted for by the parties or the Court.”*

[23] Considering the time and correspondence Defendant devoted to commenting on and debating the content of these agreements with Me Awwad, the Court concludes that Defendant knew or should have known what a provision for costs was and that the advance granted by Mr. G. did not amount to a blank check from him, allowing her to prolong the dispute between them without having to bear any legal costs whatsoever.

B) The Value of Services Rendered After November 2020

[24] Defendant’s objections in this regard are twofold. First, she argues that Plaintiff did not adequately manage the situation regarding the joint expert appraisal of the value of the shares held by Mr. G. in his companies, particularly due to the date chosen for that appraisal. Second, she criticizes the plaintiff for failing to prepare the case for trial.

[25] Regarding the date on which the valuation of the shares was to be conducted, Defendant claims that October 2020, the date the couple ceased cohabiting, should have been used, rather than June 30, 2018²⁵. This joint appraisal is provided for in the *Interim Consent to Judgment* of November 27, 2020²⁶, which was ratified by judgment.

[26] On July 19, 2024, in the divorce case, justice Duplessis ruled on several incidental proceedings²⁷. She noted that Defendant argued that *“she was not duly informed by her previous attorney of the date chosen for the expert evaluation and that she does not agree, or she did not agree,”* and authorized her to file an application to disavow Plaintiff regarding this expert evaluation. However, this was not done.

[27] Before the Court, Defendant explained her decision not to proceed with this application on financial grounds. While this may have been a strategic choice, the Court cannot accept this explanation given the testimony of Me Awwad, supported by the email Defendant sent him on December 14, 2019,²⁸ in which she wrote: *“Just to clarify, F [...] and I were living as husband and wife until March 2018, even if the lawyer says otherwise that’s not true [...] but we never attempted any reconciliation or anything similar afterward that’s not true”* [exact reproduction].

[28] The other allegations regarding the handling of the expert report fall within the scope of the litigation strategy adopted by Plaintiff, who has only an obligation of means and not

²⁵ The expert report is Exhibit D-7.

²⁶ Exhibit D-3.

²⁷ Judgment of July 19, 2024, Exhibit D-8.

²⁸ Exhibit P-23.

of results in this regard²⁹. Nothing in the evidence allows the Court to conclude that Me Awwad did not act as a competent and diligent attorney in his use of this expert report.

[29] Defendant's second complaint regarding the handling of the case following the signing of the *Interim Consent to Judgment* in November 2020 relates to the absence of: i) a pre-trial examination of Mr. G.; ii) a defence and cross-application; iii) an application for provisional measures; iv) an application for provision for costs; and v) a declaration of readiness and a request for setting the case down for trial and judgment.

[30] First, the expert report was not available until July 19, 2022. From that date onward, Me Awwad made every effort to settle the case rather than proceed with litigation and depositions. He believed that negotiating a settlement was preferable to holding a trial under the circumstances of this case. Incidentally, justice Edwards's judgment³⁰ supports Me Awwad's conclusion that some circumstances were detrimental to Defendant.

[31] Furthermore, the Court finds, based on the testimony of Mr. G.'s attorney, the court docket, and the various minutes and judgments in the divorce case³¹, that despite the sending of a draft request for setting down the divorce case for trial and judgment by Mr. G. on November 21, 2023³², there was still room for negotiations³³. Thus, the Court concludes that nothing in the evidence calls into question the strategic choices made by Me Awwad in the procedural conduct of Defendant's case until Plaintiff ceased representing her in March 2024.

3) What is the applicable interest rate?

[32] Plaintiff requests that interest be applied to the amount of the judgment at the contractual annual rate of 15.4%. However, this rate is the one set forth in the fee agreement dated February 19, 2024³⁴, which does not provide for retroactive application.

[33] Since all the unpaid invoices relate to an earlier period, namely, from November 23, 2022, to February 19, 2024³⁵, the rate set forth in the fee agreement dated March 3, 2022³⁶, namely 12.3% per year, should be applied.

²⁹ *Roch Lessard 2000 Inc. v. St-Pierre*, 2022 QCCS 3461, paras. 166–174.

³⁰ Exhibit P-24.

³¹ Exhibits P-13 through P-22 and D-10.

³² Exhibit D-9.

³³ Exhibit D-13.

³⁴ Exhibit P-1.

³⁵ Exhibit P-2.

³⁶ Exhibit P-3.

4) Should the Court declare that Defendant reserves her right to seek damages arising from the Plaintiff's conduct?

[34] Under the circumstances of this case, the declaratory judgment sought by Defendant is without merit and is denied.

[35] Indeed, Defendant's "*Means of Contestation and Cross-Demand*" dated September 20, 2024, claims \$40,000 in damages from Plaintiff. On March 3, 2026, Defendant filed an "*Acte de désistement*" of her cross-demand, and she modified her "*Means of contestation*," in which she asserted that until the divorce proceedings are adjudicated, the financial harm resulting from Plaintiff's execution of its mandate will not be quantified.

[36] This may or may not be the case. It is unnecessary for the Court to acknowledge in its conclusion that such a statement was made and why.³⁷ The discontinuance restores matters to their former state.³⁸

[37] **FOR THESE REASONS, THE COURT:**

[38] **GRANTS**, in part, Plaintiff's original application for unpaid fees;

[39] **DISMISSES** Defendant's modified means of contestation requesting a declaration of reservation of rights;

[40] **ORDERS** Defendant to pay Plaintiff the sum of \$20,136.74 plus interest at the contractual rate of 12.3% per annum, all as of February 19, 2024;

[41] **THE WHOLE**, with costs.

MARTINE L. TREMBLAY, J.C.Q.

Me Marie-Anne Martin
GOLDWATER DROIT INC.
Plaintiff

Me Robert Teitelbaum
Defendant

³⁷ *Blumenthal v. Di Zazzo*, 2020 QCCA 1032, para. 17.

³⁸ *Code of Civil Procedure*, RLRQ, c. C-25.01, Art. 213.

Dates of hearing: March 19 and 20, 2026.