CITATION NO.: Nutri Sci 2000 Inc. v. McLean, 2026 ONSC 6263
COURT FILE NO.: CV-23-83734
DATE: November 6, 2026

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SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Nutri Sci 2000 Inc., Plaintiff

- and -

Dr. Maxine McLean, Defendant

BEFORE: MacNeil J.

COUNSEL: *K. Armagon* – Lawyer for the Plaintiff

L. DeFreitas – Lawyer for the Defendant

HEARD: August 5, 2026

REASONS FOR DECISION

1. The Plaintiff, Nutri Sci 2000 Inc. ("Nutri Sci"), made this motion for summary judgment to enforce on a purported outstanding loan in the amount of $300,840.00 and seeks an order that the Defendant repay that amount.

2. The Defendant, Dr. Maxine McLean, disputes that she is personally responsible to repay any monies owing. She submits that it is her company, Star Apple Inc., carrying on business as Gratitude Keeper Inc., that is liable to the Plaintiff if monies are found to be owing. The Defendant argues that the funds were forwarded to her as an investment or an investment loan, and that she did not personally guarantee they would be repaid.

3. No responding materials were filed on behalf of the Defendant prior to the hearing date. At the outset of the hearing, however, counsel for the Plaintiff advised that it had been served with the responding materials in May 2026 and consented to the Defendant being able to file her responding materials in court. Court was stood down for me to review same. I then permitted counsel for the Defendant to file the Defendant's Responding Motion Record, Factum, and Book of Authorities for use on this motion and the hearing proceeded.

4. The parties filed supporting affidavits. Counsel for the Plaintiff advised that the Defendant had been cross-examined on her affidavit; no transcript of that cross-examination was filed, however.

Summary Judgment Legal Principles

5. Pursuant to Rule 20.04(2)(a) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, the court shall grant summary judgment if it is satisfied that there is no genuine issue requiring a trial with respect to a claim or defence.

6. Rule 20.04(2.1) sets out the court's powers in determining whether there is a genuine issue requiring a trial. It provides that the court shall consider the evidence submitted by the parties and, where the determination is being made by a judge, the following powers can be exercised for this purpose, unless it is in the interest of justice for such powers to be exercised only at a trial: (i) weighing the evidence, (ii) evaluating the credibility of a deponent, and (iii) drawing any reasonable inference from the evidence.

7. In *Pastink et al. v. 1190393 Ontario Limited et al.,* 2023 ONSC 6037, at para. 6, Fowler Byrne J. identified the following summary judgment principles, which I accept and adopt for present purposes:

a. There will not be a genuine issue requiring a trial if I am able to reach a fair and just determination on the merits of the motion. This will be the case when I can make the necessary findings of fact, apply the law to those facts, and this is a proportionate and more expeditious means to achieve a just result: *Hryniak*, at para. 49;

b. I should first determine if there is a genuine issue requiring a trial based only on the evidence before me, without resorting to my enhanced fact-finding powers as set out in r.20.04(2.1). If, after this step, it appears that there is a genuine issue requiring a trial, I should then determine if a trial can be avoided utilizing my powers under r.20.04(2.1) and (2.2). Again, this is as long as their use is not against the interests of justice. Their use will not be contrary to the interests of justice if they lead to a fair and just result, and serve the goals of timeliness, affordability, and proportionality, in light of the litigation as a whole: *Hryniak*, at para. 66;

c. The moving party bears the onus of showing that there is no genuine issue requiring a trial. It cannot rely on mere allegations or pleadings. When it has satisfied the court that there is no genuine issue requiring a trial, the burden shifts to the responding party to prove that their defence has a real chance of success. The responding party cannot rely on allegations or denial. They must set out, in affidavit material or other evidence, specific facts showing there is a genuine issue requiring a trial: *New Solutions Extrusion Corporation v. Gauthier*, 2010 ONSC 1037, at para.12, aff'd 2010 ONCA 348;

d. A party must put their best foot forward on a motion for summary judgment with respect to the existence or non-existence of material issues to be tried: *Broadgrain Commodities Inc. v. Continental Casualty Company (CNA Canada)*, 2018 ONCA 438, at para. 7; *New Solutions*, at para. 12; *Sweda Farms v. Egg Farmers of Ontario*, 2014 ONSC 1200, at para. 32, affirmed 2014 ONCA 878, leave to appeal refused, 2015 CanLII 5860 (S.C.C); and

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e. The court is entitled to assume that the record contains all the evidence which the parties will present if there was a trial: *New Solutions*, at para. 12; *Canada (Attorney General) v. Lameman*, 2008 SCC 14, [2008] 1 S.C.R. 372, at para. 11; *Broadgrain* at para. 7.

8. As Goodman J. reiterated in *Allen v. Succession Capital*, 2011 ONSC 3300, at para. 42: "If there is a genuine issue with respect to material facts, then no matter how weak or how strong appear the claim or the defence, the case must be sent to trial. It is not for the motions judge to resolve the issue. Matters of law which have not been fully settled should not be disposed of on a motion for summary judgment. [Footnotes omitted.]"

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Issue

9. In order to grant summary judgment in this case, the court has to be able to determine the main issue of what is the correct characterization of the funds advanced by the Plaintiff – were the advances a personal loan as contended by the Plaintiff or were they an investment or a business loan as the Defendant asserts?

Position of the Plaintiff

10. The Plaintiff submits that its principal, Dr. Gerald Blackburn ("Mr. Blackburn"), first became acquainted with the Defendant through attending various wellness conferences across Ontario. In or about April 2022, the Defendant introduced herself as a clinician, author and educator in the wellness space. She approached Mr. Blackburn at one of the conferences and spoke about needing funding to continue building her small business, which included launching a book. As a result, Mr. Blackburn agreed to provide a series of short-term loans through his company, Nutri Sci. The Plaintiff submits that, apart from being advised that the loans were needed for her business, Mr. Blackburn was not given any information by the Defendant regarding how the money was spent or its purpose.

11. Through April 22 to June 2, 2022, Nutri Sci advanced $76,450.00 to the Defendant. The Defendant agreed to make some partial repayments, but the total would be repaid by September 1, 2022.

12. On June 3, 2022, the parties executed a written loan agreement for $76,450.00 confirming that the total repayment of this sum would be received by Nutri Sci by September 1, 2022.

13. Nutri Sci then made further loans to the Defendant, bringing the total to $236,390.00. The Defendant repaid $3,000.00 on November 21, 2022, reducing the balance to $233,390.00 as at December 21, 2022. This was set out in another loan agreement, dated April 6, 2023, signed by the Defendant and Mr. Blackburn.

14. The Plaintiff continued to make additional loans through January, February and March 2023. On March 27, 2023, the Defendant repaid $2,660.00, leaving an outstanding balance of $300,840.00.

15. On September 28, 2023, the Plaintiff made a formal demand for repayment of the outstanding balance. However, no further payments were made to date.

16. The Plaintiff argues that, at all material times, it understood and believed that it was dealing directly with the Defendant. All funds advanced by Nutri Sci were sent to accounts identifying the beneficiary as Dr. Maxine McLean, the Defendant, together with her corresponding banking information. Nutri Sci did not advance funds to any entity operating under the name "Gratitude Keeper Inc.".

17. The Defendant did request that some payments be directed to Star Apple Inc., an entity owned and controlled by her, and Nutri Sci complied with these requests. However, the Plaintiff contends that, notwithstanding these occasional requests, it consistently understood that all advances were being made for the benefit of the Defendant personally, and it conducted itself on the basis that she was always the borrower.

18. The Plaintiff submits that summary judgment is appropriate in the circumstances and should be granted as there is no genuine issue for trial in this case. The parties entered into an oral agreement wherein Nutri Sci was to provide loans to the Defendant, and the terms of the loans were made certain through subsequent loan agreements signed by the Defendant. The Defendant acknowledged those loans through subsequent repayments in accordance with the loan agreements. The Defendant has failed to tender any legally valid or tenable defence to the action and, in oral argument at the hearing, her counsel expressly admitted that the amount of $300,840.00 is owing to the Plaintiff.

Position of the Defendant

19. It is the position of the Defendant that this matter is not appropriate for determination by way of a motion for summary judgment as certain key facts are in dispute and so there are genuine issues requiring a trial, including:

(a) the true nature of the parties' relationship;
(b) whether the monies transferred to her were gifts, voluntary advances, or loans;
(c) whether any contract was formed; and
(d) whether essential terms were agreed upon.

20. The Defendant submits that any arrangement she had with Mr. Blackburn was based on the business of her company, Gratitude Keeper Inc., that was engaged in developing and marketing health-related products. (Curiously, the Defendant filed with the Court trademark application documents showing Star Apple Inc. as the applicant, with "Gratitude" as the trademark detail, one of which has a filing date of November 16, 2017 and indicates under "Services" provided: *36 – Financial services, namely, provision of a cryptocurrency blockchain for digital currency exchange and trading services via a global computer network.*)

21. The Defendant alleges that she first met Mr. Blackburn at a conference in or about 2016 and, during discussions with him at that time, she advised him that her corporation was pursuing opportunities in the health products market. She attests that Mr. Blackburn expressed interest in

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the business and asked if she was seeking investors and she responded to him that she was. The Defendant's evidence is that, while Mr. Blackburn provided her with his business card, no commitment or formal agreement was made at that time.

22. In or about 2022, the Defendant contacted Mr. Blackburn to ask if he remained interested in investing in her corporation, and he said that he was. Thereafter, he began sending funds in various amounts. The Defendant's evidence is that she understood and believed those monies were being advanced for the benefit of Gratitude Keeper Inc. as investments or as corporate advances intended to assist the corporation in developing and marking its products. They were not personal loans to her individually.

23. The Defendant attests that there was no formal or negotiated written loan agreement setting out the essential terms of the parties' arrangement. Her evidence is that, in June 2022, she met with Mr. Blackburn, and he "unexpectedly" presented her with a handwritten list of funds advanced and requested repayment of same within four months. The Defendant states that she was surprised by the request because the business needed time to develop products and generate revenue. When she advised Mr. Blackburn of this, he insisted on the handwritten schedule. In order to avoid confrontation and under pressure, the Defendant signed the handwritten note presented to her.

24. The Defendant attests that any payments she made were done in the context of trying to preserve goodwill and maintain the relationship with Mr. Blackburn, and are not an admission of personal indebtedness.

25. The Defendant states that she believes Mr. Blackburn was influenced by comments made to him by his bank to the effect that she was "a fraud artist" or "scammer". However, those comments, if made, are false, unfair and damaging.

26. While counsel for the Defendant conceded in oral submissions that the amount of $300,840.00 was owing to the Plaintiff, at paragraph 27 of the Defendant's filed affidavit, she attests that "the amounts claimed are inflated, inaccurate, and require strict proof".

27. The Defendant requests that the court dismiss the Plaintiff's motion for summary judgment and direct that the action proceed to trial.

Analysis

28. For the reasons that follow, I find that the Plaintiff has not satisfied its onus of showing that there is no genuine issue requiring a trial.

29. As set out in the legal principles stated earlier, the court is entitled to assume that the record on this motion contains all the evidence that the parties would present if the matter proceeded to trial and that both parties have put their "best foot forward". Here, the record does not afford an evidentiary basis to make the necessary factual and legal findings to establish liability against the Defendant without a trial. For example, the Defendant disputes that the loans were personal to her and the following documentary evidence appears, at first glance, to support her in this regard:

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(a) the face of the payment orders made by the Plaintiff on May 20, 2022 and June 2, 2022 indicate "Business Loan";

(b) the face of the payment orders made by the Plaintiff on June 24, 2022 and between the period January 5, 2023 to April 14, 2023 indicate "Investment"; and,

(c) the face of the payment orders made by the Plaintiff between the period August 10, 2022 to October 4, 2022 indicate "Star Apple Inc." as the "Beneficiary".

30. In paragraph 5 of the statement of claim, the Plaintiff pleads that the Defendant spoke to Mr. Blackburn "about needing a loan to assist in her business". Further, in paragraphs 8 and 9 of his affidavit, Mr. Blackburn states that the Defendant spoke to him about needing funds "to continue building her small business" and advised him that the funds were "required for her business".

31. In paragraph 15 of his affidavit, Mr. Blackburn acknowledges that some of the advances were marked to Star Apple Inc., stating:

> … some of the payments are addressed to Star Apple Inc. ("Star Apple"), an entity owned and operated by Dr. McLean where she would sometimes ask me to send money to Star Apple as well. Despite advances being made to Star Apple, I believed that I was dealing with Dr. McLean at all times.

However, he does not provide any particulars to support why he believed the funds were still being loaned on a personal basis to the Defendant. Rather, he only provides a bald statement that he believed he was dealing with her. The problem is that Mr. Blackburn would have been dealing with the Defendant in either scenario – either in her personal capacity or as an agent for her company – and so his affidavit evidence is inadequate to make a finding in favour of the Plaintiff's claim.

32. For a court to find that there is an enforceable oral agreement, the following elements must be present: (i) an offer, acceptance and consideration; (ii) certainty regarding the essential terms of the agreement; and (iii) the intention to create a legally binding agreement: *IMG Canada Limited v General Motors of Canada Limited*, 2017 ONSC 3841, at para 9, citing *Donovan Homes Ltd. v. Modern Paving Ltd.*, 2011 NLCA 39, 308 Nfld. & P.E.I.R. 180, at paras. 30, 32-33.

33. When determining whether there was an intention to create a legally binding contract, the court must consider whether there was a "meeting of the minds" such that an agreement was formed. A meeting of the minds is established "where it is clear to the objective reasonable bystander, in light of all the material facts, that the parties intended to contract and the essential terms of that contract can be determined within a reasonable degree of certainty": *IMG Canada Limited*, at para. 10, citing *UBS Securities Canada Inc. v. Sands Brothers Canada Ltd.*, 2008 CanLII 19507 (ONSC); [2008] O.J. No. 1676, at para. 40 (Ont. S.C.J.).

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34. The parties appear to agree that their initial arrangement was based on an oral agreement. However, I am unable to determine what the essential terms of that oral agreement were with any degree of certainty, including any repayment terms.

35. The Plaintiff relies on two handwritten notes that were subsequently prepared by Mr. Blackburn and signed by the parties. The first, dated June 3, 2022, indicates that the "short-term loan" amount owing is $76,450.00, and that the terms are: "ASAP partial repayments, total by Sept 1, 2022". The note was presented to the Defendant and she signed it in her name; above the Defendant's signature, her name and address are set out along with her business address. The second handwritten note, signed on April 6, 2023, indicates the amount of $233,390.00 owing as at December 31, 2022; above the Defendant's signature is found both her name and address and Star Apple Inc.'s name and address. The Defendant disputes that the terms set out in these notes were agreed upon between the parties. Based on the evidence before the court, I am unable to determine what terms were agreed upon by the parties when the itemized advances were made, and whether these notes accurately reflect the parties' agreement.

36. I am unable to determine if, in accepting the funds from the Plaintiff, the Defendant was acting in her personal capacity or on behalf of her company, or if the Plaintiff knew or ought reasonably to have known it was dealing with a corporate entity: *Truster v. Tri-Lux Fine Homes Ltd.*, 1998 CanLII 3497 (ON CA), at para. 21. While the evidence shows that the document signed April 6, 2023 and a number of the payment orders reference the Defendant's company, Star Apple Inc., it is not clear the reason why or what the parties' intentions were in referencing the company.

37. I am also unable to determine the actual amount of advanced funds that need to be repaid. In the Plaintiff's affidavit, the principal amount owing is stated to be $306,500.00. However, this total does not accord with the documentary evidence. The documentary evidence filed appears to show that $128,700.00 was paid by the Plaintiff to the Defendant personally; that $80,200.00 was paid marked as "Investment"; and that $68,700.00 was paid to "Star Apple Inc.", for a grand total of $277,600.00.

38. I have reviewed the affidavits and the documents filed. There is conflicting evidence on the parties' intentions and on the events and circumstances surrounding the advances made by the Plaintiff. The record is insufficient and does not allow me to make the necessary credibility findings and findings of fact needed to decide this case. Both affidavits are vague as it relates to the purported discussions and the arrangement reached between the parties, and they have significant gaps. The current evidence does not establish a meeting of the minds between the parties as alleged by the Plaintiff, and there is no proof of consideration given.

39. A trial is needed in order to have *viva voce* evidence, and cross-examination on that evidence, from both parties for the court to be able to examine the conduct of the parties and related events and ascertain their intentions, assess their credibility, and determine the true nature of their financial arrangement.

40. Resorting to the powers under Rules 20.04(2.1) and (2.2) of the *Rules of Civil Procedure* would not avoid the necessity of a regular trial since it is evidence relevant to the whole of the

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parties' transactional relationship that is lacking, and not just evidence with respect to a discrete issue or two.

41. I conclude that it is best left to a judge after trial to determine the true intention of the parties based on a complete record.

Disposition

42. For the foregoing reasons, the Plaintiff's motion for summary judgment is dismissed.

Costs

43. I would urge the parties to agree on costs. If they are unable to do so, then costs submissions may be made as follows and submitted to the Sopinka Judicial Assistants to my attention:

(a) By November 20, 2026, the Defendant shall serve and file her written costs submissions, not to exceed three pages, double-spaced, together with a draft bill of costs and copies of any pertinent offers; and

(b) The Plaintiff shall serve and file its responding costs submissions of no more than three pages, double-spaced, together with a draft bill of costs and copies of any pertinent offers, by December 4, 2026; and

(c) The Defendant's reply submissions, if any, are to be served and filed by December 11, 2026 and are not to exceed two pages.

(d) If no submissions are received by December 11, 2026, the parties will be deemed to have resolved the issue of the costs and costs will not be determined by me.

44. If the parties are able to settle the question of costs or if a party does not intend to deliver submissions, counsel are requested to advise the court accordingly.

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MacNEIL J.

Released: November 6, 2026

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