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Droit de la famille — 261234, 2026 QCCA 1092

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COURT OF APPEAL

CANADA
PROVINCE OF QUÉBEC
MONTREAL SEAT

No.: 500-09-700419-252
(500-12-346253-200)

DATE: August 11, 2026

CORAM: THE HONOURABLE STÉPHANE SANSFAÇON, J.A.
FRÉDÉRIC BACHAND, J.A.
JUDITH HARVIE, J.A.

A. P.
APPELLANT/INCIDENTAL RESPONDENT – Plaintiff
v.

S. K.
RESPONDENT/INCIDENTAL APPELLANT – Defendant

JUDGMENT

WARNING: Disclosure and circulation prohibited: The *Code of Civil Procedure* (“*C.C.P.*”) provides that, unless authorized by the court or by law or unless the disclosure or circulation of the information is necessary for the purpose of applying a law, no person shall disclose or circulate any information that would allow a party or a child whose interests are at stake in a proceeding in a family matter to be identified (art. 16 *C.C.P.*).

[1] The appellant seeks to vary certain conclusions of a judgment rendered on August 11, 2025, by the Superior Court, District of Montreal (the Honourable Pascale Nolin),[1] dealing with the corollary relief arising from the parties’ divorce, granted on January 29 of that year.

[2] The appellant also seeks leave to present evidence which he submits is new and indispensable, namely a certificate issued by the register of personal and movable

real rights, according to which a “divorce judgment” was registered in the respondent's name on January 30, 2025.

[3] For her part, the respondent submits that the judge erred in refusing to condemn the appellant to pay her a compensatory allowance, which she values at $30,000 in her incidental appeal. Relying on art. 342 *C.C.P.*, she also asks that the appellant be condemned to pay her $5,000 as compensation for the time lost and the travel expenses she incurred as a result of his unfounded opposition to her application for an extension of time to file her memorandum and his unnecessary applications before the Court, as well as his references to non-existent case law most likely generated using artificial intelligence tools.

1. The Principal Appeal

[4] The appellant submits that the judge committed various errors in assessing the partitionable value of the respondent’s pension funds. First, he claims that the judge erred regarding the impact of the US$50,000 withdrawal from her U.S. pension fund during the marriage, and that she failed to consider that the withdrawn amount “*remained invested*” and whether it may have appreciated in value. He submits that the evidence that the $49,139.27 held in one of the respondent’s Canadian bank accounts represents part of the US$50,000 originating from that U.S. pension fund lacks probative value. The appellant also argues that the judgment gives rise to a risk of “double counting” this withdrawal, in that it results in both a reduction of the partitionable value of the family patrimony and the inclusion of a liability in the respondent’s acquests. He further submits that the judge failed to explain why she did not take into account the employer’s contributions to this pension fund in determining its partitiable value, and wrongly declined to consider this fund’s appreciation in value during the marriage. Finally, he claims that she erred in arbitrarily fixing at 30% the amount that the respondent would be required to remit to tax authorities upon the eventual withdrawal of her pension funds subject to partition. Since the evidence regarding the tax rate likely to apply upon the withdrawal of the RRSPs and the U.S. pension fund lacked probative value, he argues that the judge should simply have fixed that rate at zero, thereby allowing him to benefit from the partition of the full value of these funds.

[5] All of these grounds are dismissed. All the alleged errors being errors of fact or mixed errors of fact and law, the standard of review requires a demonstration of palpable and overriding errors, the burden of which lies on the appellant. Yet, he elected not to file on appeal any transcripts of the testimony heard over the course of the five-day hearing, and only a fraction of the exhibits entered into evidence, thereby preventing the Court from undertaking the review he seeks.[2]

[6] In addition, the appellant’s complaints against the judge fail to take into account that the parties, who were not represented by counsel at the hearing, adduced only incomplete evidence on several aspects, as the judge pointed out on more than one occasion. For instance, at paragraph [79] of her reasons, she explains why she did not attribute any appreciation in the value of the pension fund for the period between the marriage and the separation: because the parties failed to provide her with the evidence

required for that purpose, and given the brief duration of the marriage. The appellant himself admits that the evidence adduced by the parties in certain respects (e.g., their expenses) was only partial. In these circumstances, it would be inappropriate to criticize the judge for failing to refer to more detailed evidence, especially since she enjoyed the necessary discretion for that purpose and provided clear and thorough reasons convincingly disposing of each of the parties' arguments.

[7] The appellant also fails to mention that he recognized, during the December 3, 2024 hearing, that [TRANSLATION] "*there is no partitionable amount regarding Madam*'s *401K*", referring to the U.S. pension fund. He can hardly depart from that position before the Court, especially since he provides no evidence justifying this change of course.[3]

[8] The appellant further argues that the judge erred in law in acknowledging, in the disposition of her judgment, that the respondent had renounced the partition of the acquests. His submission is as follows. In the divorce judgment rendered on "August 11, 2025" [*sic*],[4] the judge declares the partnership of acquests dissolved as of September 13, 2019, the date of the parties' separation. She also states that the respondent renounced the partition of the acquests. However, since art. 469 *C.C.Q.* requires that the renunciation to the acquests be entered in the register of personal and movable real rights within one year from the date of dissolution (failing which the spouse is deemed to have accepted), and since more than a year elapsed between the alleged date of divorce (August 11, 2025) and the date of the partnership of acquests' dissolution (September 13, 2019), the judge could no longer judicially declare that the respondent had renounced the partition of the acquests.

[9] This ground is without foundation.

[10] Since this ground of appeal was not identified in the notice of appeal, the appellant should, at the very least, have sought leave to add it, which he did not do[5]. Irrespective of that, this ground of appeal is based on a misunderstanding of the date on which the divorce was granted and of the extent to which the effects of the dissolution of the parties' matrimonial regime operate retroactively.

[11] As per article 465, para. 1(3) *C.C.Q.*, the dissolution of the regime occurs upon "a judgment of divorce, separation from bed and board, or separation as to property". In this case, the divorce was granted on January 29, 2025 (and not on August 11, 2025 as the appellant wrote). It is therefore on this date that the parties' matrimonial regime was dissolved.

[12] However, upon the application of either party, the judge may decide that, in the relations between the spouses, the effects of the dissolution are retroactive to the date when they ceased sharing a community of life (art. 466 *C.C.Q.*).

[13] It is true that, in the disposition of her judgment, the judge wrote "*the partnership of acquests be dissolved as of September 13, 2019*", the date on which the

parties ceased sharing a community of life. That statement must, however, be understood for what it truly is: it is not the dissolution of the partnership that the judge made retroactive to the date of separation, but the effects of that dissolution, as permitted by art. 466 *C.C.Q.*, and as she explains clearly at para. [86] of her reasons.

[14] Accordingly, since one year had not yet elapsed between the date of the divorce (January 29, 2025) and the date of the judicial declaration recognizing the respondent's renunciation of the acquests' partition (August 11, 2025), this ground of appeal must be dismissed.

[15] That being said, this ground of appeal rests on a questionable interpretation of the obligation to register a renunciation in the register of personal and movable real rights under art. 469 para. 2 *C.C.Q.*, in the presence of a judicial declaration, at least with respect to the effects of such registration as between the parties. While the failure to publish the renunciation undoubtedly affects its opposability against third persons (art. 2941 *C.C.Q.*), one may question whether it is likewise inopposable against the former spouse, who can hardly be regarded as a third person, when a court has judicially acknowledged that renunciation in the divorce judgment.[6] However, as this issue was neither raised by the parties in first instance nor pursued on appeal, and as its determination is unnecessary to the disposition of this ground of appeal, the Court need not address it further.

[16] Lastly, in light of the foregoing, the application for leave to present new evidence shall be dismissed, since the proposed evidence is neither necessary nor even helpful to the disposition of the appeal.

2. The Incidental Appeal

[17] The respondent's notice of incidental appeal primarily challenges the judge's refusal to grant her a compensatory allowance. The respondent also asks the Court to order the appellant to pay her $5,000 as compensation for the time lost and costs incurred as a result of his unfounded opposition to her application for an extension of time to file her memorandum, his unnecessary applications before the Court, and his citation of non-existent case law generated using artificial intelligence.

[18] The reasons of the judgment under appeal demonstrate that the judge grounded her conclusion to dismiss the claim for a compensatory allowance on the history of the parties' relationship, including their respective contributions to the household, the respondent's contribution to the enrichment of the appellant's patrimony, the causal connection between the two, the proportion in which that contribution produced the enrichment, and the absence of justification. Her analysis extends over 26 paragraphs, which contain nothing to support the conclusion that she misapplied the relevant law to the evidence.

[19] However, like the appellant, the respondent failed to file with the Court the transcripts of the testimony and filed only a limited number of exhibits, which therefore cannot be assessed in light of the evidence as a whole. Accordingly, the Court is unable

to perform the review sought by the respondent. This ground of appeal is therefore dismissed.

[20] As for the respondent's claim for compensation for the time lost and travel expenses incurred as a result of the appellant's conduct, several of the alleged instances of misconduct are said to have taken place at first instance. Yet, the respondent brought no application before the first judge under arts. 54 or 342 *C.C.P.*, even though that judge was better placed than this Court to rule on the matter, and the relevant elements were not reproduced in the memoranda. As for the appellant's objections and applications before this Court, it is apparent that most do not result from bad faith, but from a lack of experience.

[21] The same cannot be said, however, of the appellant's references in his memorandum to non-existent decisions.

[22] In support of several of his grounds of appeal, the appellant relies on two Supreme Court judgments and two Court judgments that do not exist. More significantly, he ascribes to those decisions legal principles that he reproduces as quotations, even though those principles are no more real than the judgments themselves. During his oral argument on appeal, he made no mention of the non-existent authorities, despite the fact that the respondent had raised the issue in her memorandum. It was not until reply, and only when questioned by members of the Court, that he explained himself. The appellant conceded that these authorities are the product of the artificial intelligence ChatGPT. He explained that he discovered they did not exist during a consultation with counsel even before filing his memorandum, but he did not consider it necessary to amend his memorandum to remove the fabricated references and quotations before filing it, attributing this to an oversight on his part. He added, however, that he had decided to remove copies of those decisions from the book of authorities filed with the Court for the purposes of the hearing.

[23] In her *Notice Respecting the Use of Artificial Intelligence before the Court of Appeal*, the Chief Justice of Quebec addressed the following warning to litigants who might appear before the Court:

> Artificial intelligence[1] is a powerful tool whose increased availability is likely to facilitate the work of litigants. Nonetheless, it is not an infallible tool, and when relied upon to do research or to prepare a document for the Court of Appeal, it must be used carefully and in keeping with the following principles.
>
> **Caution:** The Court of Appeal urges litigants to exercise caution when they include in their written or oral submissions legal sources obtained or analyses prepared with the help of artificial intelligence.
>
> **Reliability:** In order to guard against the risk of legal sources fabricated by artificial intelligence, parties must base their submissions on legislative or regulatory texts, case law and doctrine from reliable sources such as court websites and recognized publishers or databases.

> Indeed, the Chief Justice's Directive entitled "*Rules Respecting the Preparation of the PDF File of Pleadings, Briefs, Memoranda, Books of Authorities or Any Other Document*"[2] requires that lists of authorities include hyperlinks to a <u>recognized website that can be accessed free of charge</u>.
>
> **Human involvement:** Litigants are responsible for the accuracy of their written and oral submissions. If they use artificial intelligence to prepare their submissions, they must check and confirm the information provided. It is their responsibility to perform the necessary cross-checks <u>with reliable databases</u> to ensure that references and their content stand up to thorough scrutiny and maintain the integrity and reliability of our justice system.
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> 1. Artificial intelligence includes "large language models", a type of artificial intelligence system capable of processing and generating human-like text by using vast amounts of training data. Available on the Court's website.
> 2. Available on the Court's website.
>
> [Underlining added]

[24] Parties bear the responsibility of ensuring that the case law and authors they cite in support of their legal arguments are accurate and reliable. The appeal of artificial intelligence is understandable, at least for certain purposes. However, no one can assume that the result obtained is free from hallucinations produced by the engine used. This is why parties are required to support their submissions with legislation and regulations, case law and academic commentaries drawn from reliable sources, such as court websites and recognized publishers or databases.

[25] When confronted with such conduct, deliberate in this case given the appellant's knowledge of the matter before he even filed his memorandum, the Court is not without recourse. Article 342 *C.C.P.* provides as follows:

342. The court, after hearing the parties, may, on its own initiative or on an application, punish substantial breaches noted in the conduct of the proceeding by ordering a party to pay to another party, as legal costs, an amount that it considers fair and reasonable to cover the professional fees of the other party's lawyer or, if the other party is not represented by a lawyer, to compensate the other party for the time spent on the case and the work involved.	**342.** Le tribunal peut d'office ou sur demande, après avoir entendu les parties, sanctionner les manquements importants constatés dans le déroulement de l'instance en ordonnant à l'une d'elles, à titre de frais de justice, de verser à une autre partie, selon ce qu'il estime juste et raisonnable, une compensation pour le paiement des honoraires professionnels de son avocat ou, si cette autre partie n'est pas représentée par avocat, une compensation pour le temps consacré à l'affaire et le travail effectué.

For that purpose, in family matters, the court takes into account the history of the proceedings involving the parties.	À ces fins, en matière familiale, le tribunal tient compte de l'historique des procédures impliquant les parties.

[26] The Court has had the opportunity to consider what may constitute a breach within the meaning of that provision:

> [82] Qu'est-ce qu'un manquement important? Lors de l'adoption du nouveau *Code de procédure civile*, le ministre de la Justice de l'époque, M. Bertrand St-Arnaud, l'a décrit comme un manquement « d'une certaine gravité » et qui est plus qu'anodin. La jurisprudence de la Cour supérieure va dans le même sens.
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> [83] De son côté, la Cour a qualifié les comportements suivants de « manquements importants » : le défaut de respecter des engagements; l'utilisation de prétextes pour retarder la transmission de renseignements financiers pertinents (ultimement communiqués pendant le procès avec huit mois de retard); l'omission ou le refus de transmettre l'identité et les coordonnées de témoins clés; et le fait d'éviter de répondre aux questions lors d'un interrogatoire. Ce sont tous des gestes destinés à embêter l'autre partie, à entraver le cours du procès ou à faire perdre le temps des parties et du tribunal.
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> [84] Les manquements énumérés à l'article 341 al. 2 *C.p.c.* (ne pas respecter des délais, indûment tarder à présenter un incident ou un désistement, faire comparaître un témoin inutilement, etc.) peuvent également servir de guide. Bien que les articles 341 et 342 *C.p.c.* n'aient pas le même objet (l'article 341 permet au tribunal de condamner la partie qui a eu gain de cause à payer les frais de justice), « le même principe les sous-tend : décourager les justiciables à faire un mauvais usage de la procédure et les encourager à respecter les engagements qu'ils prennent dans le cadre du contrat judiciaire ».
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> [85] En somme, l'article 342 *C.p.c.* « vise à décourager les parties de faire un mauvais usage de la procédure ». Il s'agit d'évaluer « le comportement d'une partie dans le cadre des procédures judiciaires […] et non pas la position adoptée par elle sur le fond de l'affaire ». Dans l'arrêt *Biron c. 150 Marchand Holdings inc.*, la Cour précise que l'article 342 *C.p.c.* doit être interprété à la lumière des principes directeurs de la procédure civile (art. 19 et 20 *C.p.c.*), à savoir :
>
> - Le devoir de limiter l'affaire à ce qui est nécessaire pour résoudre le litige […];
> - Le devoir de ne pas agir en vue de nuire à autrui ou d'une manière excessive ou déraisonnable, allant ainsi à l'encontre des exigences de la bonne foi […];

- Le devoir de coopérer, « notamment en s'informant mutuellement, en tout temps, des faits et des éléments susceptibles de favoriser un débat loyal et en s'assurant de préserver les éléments de preuve pertinents » […];

- Le devoir « au temps prévu par le Code ou le protocole de l'instance, [de] s'informer des faits sur lesquels elles fondent leurs prétentions et des éléments de preuve qu'elles entendent produire » […].

> [86] Contrairement à l'article 54 *C.p.c.*, l'article 342 *C.p.c.* vise d'abord à « sanctionner/*punish* » les manquements, et non à réparer le préjudice subi par une autre partie. Certes, la sanction permettra de compenser, dans une certaine mesure, les honoraires professionnels de l'avocat de cette autre partie (ou, si elle n'est pas représentée par avocat, le temps consacré à l'affaire et le travail effectué), mais l'objectif premier consiste à imposer une sanction proportionnelle à la gravité des manquements, selon ce que le tribunal estime juste et raisonnable, et non selon le principe de la restitution intégrale.[7]
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> [References omitted]

[27] Similarly, in *Biron*[8], Chamberland J.A., writing for the Court, comparing the rule set out in art. 342 *C.C.P*. with that in art. 54 para. 1 *C.C.P*., which is grounded in civil liability and serves a more "compensatory" purpose, wrote:

> [99] <u>La règle vise à décourager les parties de faire un mauvais usage de la procédure</u>. Il s'agit d'évaluer « le comportement d'une partie dans le cadre des procédures judiciaires […] et non pas la position adoptée par elle sur le fond de l'affaire ». […].
>
> [123] <u>L'article 342 *C.p.c.* est important pour changer les mentalités face à l'action en justice, contrer les abus et discipliner les plaideurs, qu'ils soient avocats ou non</u>, mais il ne doit pas mener à un examen systématique par le juge de leur conduite par rapport à ce qu'elle devrait être selon les principes directeurs de la procédure civile, procédure par procédure, à toutes les étapes du déroulement de l'instance jusqu'à la fin du procès. […].
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> [Underlining added; references omitted]

[28] Misleading the court by deliberately supporting one's arguments with non-existent decisions, whether generated by artificial intelligence or otherwise, undoubtedly constitutes a serious breach that has become recurrent in Canadian law[9] and, in Quebec, amounts to a substantial breach in the conduct of the proceeding under art. 342 *C.C.P*. While those decisions may be fictitious, the difficulties they create for the administration of justice are very real, and are not confined to the Court of Appeal. The Court of Québec recently had occasion to deal with the issue once again:

> [68] D'abord, la production d'un document comportant des jugements qui n'existent pas, ou encore en attribuant à ces décisions des principes de droit qu'elles n'énoncent pas, porte atteinte à la fiabilité de l'information soumise au Tribunal.

> [69] Or, le Tribunal doit pouvoir se fier à l'exactitude des sources invoquées afin d'analyser le droit applicable. Des références inexactes ou fabriquées compromettent donc la qualité du débat judiciaire et risquent d'induire le Tribunal en erreur. Cette manière de procéder est difficilement conciliable avec l'exigence de bonne foi et le souci de circonscrire le débat à l'essentiel, tel que le prévoit l'article 19 C.p.c.
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> [70] Par ailleurs, le rôle du juge n'est pas de démêler des références fictives ou erronées. Une telle démarche détourne le Tribunal de sa fonction première, soit celle de trancher les litiges sur la base du droit réel et applicable et elle va à l'encontre des impératifs d'efficacité et de proportionnalité de l'instance.[10]

So did the Superior Court:

> [43] Si l'accès à la justice commande une certaine flexibilité de la part des tribunaux face au citoyen qui doit se représenter sans l'aide d'un avocat, celle-ci ne saurait jamais se traduire par une tolérance du faux. L'accès à la justice ne saurait jamais s'accommoder de la fabulation ou de la frime.[11]

[29] To this must be added the unnecessary and costly waste of time occasioned by the use of unreliable sources, which the opposing party is then required to verify itself for accuracy, and which, in the circumstances of this case, the Court finds warrants compensation.

[30] In addition to having caused such prejudice to the respondent, the appellant took no steps whatsoever to mitigate the harm caused after being advised by his counsel that the memorandum he was about to file contained false material that should be removed. The explanation he offered when questioned at the hearing, namely that he had elected not to include those decisions in his book of authorities, is clearly without merit, since he obviously could not have filed what does not exist. He chose to file a memorandm tainted by references to non-existent decisions and fabricated quotations, and to remain silent about the matter until questioned about it by members of the Court.

[31] It must also be noted that the appellant was not ill-equipped to deal with legal proceedings and legal argument. He works as an IT consultant for his own firm.[12] He was also representing himself at first instance and demonstrated an ability to advance numerous arguments on complex issues.

[32] Accordingly, in the circumstances of this case, and having regard to the appellant's financial circumstances, the Court will exercise its discretion to reduce the amount of $5,000 claimed by the respondent and order the appellant to pay her $1,000 in legal costs as compensation for the time devoted to the matter and the work performed, in addition to bearing the costs of the appeal, despite the rule set out in art. 340 *C.C.P*. that the legal costs are borne by each party in family matters.

FOR THESE REASONS, THE COURT:

[33] **DISMISSES** the principal appeal, with legal costs against the appellant A. P.;

[34] **DISMISSES** the application for leave to present indispensable new evidence, with legal costs against A. P.;

[35] **ALLOWS** the incidental appeal in part, with legal costs against A. P.;

[36] **CONDEMNS** A. P. to pay the amount of $1,000 to S. K. within 30 days of the appeal judgment, with interest at the legal rate and the additional indemnity set out in art. 1619 *C.C.Q*.

STÉPHANE SANSFAÇON, J.A.

FRÉDÉRIC BACHAND, J.A.

JUDITH HARVIE, J.A.

A. P.
Unrepresented

S. K.
Unrepresented

Date of hearing: May 7, 2026

[1] *Droit de la famille — 251185*, 2025 QCCS 3741.

[2] *Droit de la famille — 241742*, 2024 QCCA 1537, para. 6, and cited authorities; *Droit de la famille — 231667*, 2023 QCCA 1249, para. 14.

[3] Minutes of hearing, n° 500-12-346253-200, December 3, 2024, 11:22 a.m.

[4] The divorce was granted on January 29, 2025, and not on August 11, 2025, as the appellant wrote.

[5] Art. 353 para. 2 *C.C.P.*; *Droit de la famille — 24909*, 2024 QCCA 755, para. 10.

[6] See, for example: *K.V. c. C.G.*, J.E. 2005-481, [2005] R.D.F. 251; *Dugas c. Langis*, J.E. 87-630, [1987] R.J.Q. 1267; and more particularly this Court's judgment in *Droit de la famille — 103309*, 2010 QCCA 2233, paras. 10-17. On the fact that once a renunciation has been acknowledged by way of judicial declaration, the renouncing spouse may not retract it, see art. 472 *C.C.Q*. and *Droit de la famille — 2452*, EYB 1996-29245, 1996 CanLII 5707 (QC CA) (Beauregard, J.C.A.); *Droit de la famille — 19582*, 2019 QCCA 647, para. 24; *Droit de la famille — 2285*, 2022 QCCA 116, para. 25.

[7] *9401-0428 Québec inc. c. 9414-8442 Québec inc*., 2025 QCCA 1030. To the same effect: *9302-5773 Québec inc c. West Coast Aircraft Sales and Leasing Ltd*., 2023 QCCA 823, paras. 9-12.

[8] *Biron c. 150 Marchand Holdings inc.*, 2020 QCCA 1537, paras. 99 and 123.

[9] Tom Macintosh Zheng, "The Rise of AI-Hallucinated Case Law in Canadian Courts and Tribunals, Canadian Legal Information Institute", Canadian Legal Information Institute, 2026 CanLIIDocs 738; Gideon Christian, "Ethical Framework for the Use of Generative Artificial Intelligence (AI) in the Legal Profession", *Canadian Bar Review*, vol. 104, no. 1, 81, 2026 CanLIIDocs 1028.

[10] *Makongo c. Montpetit*, 2026 QCCQ 746.

[11] *Specter Aviation Limited c. Laprade*, 2025 QCCS 3521.
[12] Judgment under appeal, paras. 7 and 140.