

Ivanov v Kiselman, 2026 CanLII 87466 (ON SCSM)

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Court File Nos. SC-23-00001804-0000
SC-23-00001804-00D1
SC-23-00001888-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Toronto Small Claims Court)**

BETWEEN:

ANDREY IVANOV & HOMETRADE REALTY INC. BROKERAGE

Plaintiffs in 1804
Defendants in 1888

And

URI KISELMAN & VIVA SOLAR INC.

Defendants in 1804
Plaintiffs in 1888
Plaintiffs in 1804-D1

and

FOREST HILL REAL ESTATE INC. BROKERAGE & ELENA SHOIKHEDBROD

Defendants in 1804-D1

COSTS ENDORSEMENT

Dates of Trial: Monday, November 3, 2025, and Wednesday, December 17, 2025.

Date of Decision, Monday, January 5, 2026.

Date of Costs Endorsement, January 29, 2026

Representative for Ivanov and Hometrade: DERYA VURAL, LSO# P18738, Licensed Paralegal,
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Representative for Kiselman and Solar: DAKOTA KELLY, LSO # P19490, Licensed Paralegal,
416-262-7053, austinlakelegal@gmail.com,

Representative for Shoikhedbrod: ELENA SHOIKHEDBROD, in person.
ELENASREALTOR.613@GMAIL.COM, 647 767-8842

No one appearing for Forest Hill.

I INTRODUCTION

1. The Court's main decision dismissing all three matters was rendered on January 5, 2026. The parties were invited to make written submissions on costs and disbursements. Having considered those submissions, this is the Court's endorsement.

II. POSITION OF THE PARTIES

2. Mr Ivanov argues that Mr Kiselman pursued the litigation with ill will. He notes that in the main reasons he was found to have made a material misrepresentation. This happened when he signed the Buyers Representation Agreement (BRA) with Forest Hill in his capacity as the controlling mind and alter ego of Viva Solar Inc (Viva).

3. Mr Kiselman argues that Mr Ivanov was found to have committed an abuse of the Court's process and was found to have added material information to the Hometrade BRA after it was signed, i.e., he fabricated evidence. He also alleges that Mr Ivanov pursued a claim that he knew, or ought to have known, was barred by the terms of his Full and Final Release with Forest Hill. Indeed, had Mr Kiselman and Viva not brought a Defendants' Claim against Forest Hill and its agent, the Full and Final Release would have remained hidden.

4. In short, each party alleges serious dishonesty and improper conduct by the other. Each relies on different sections of the Court's findings to justify a costs award in their favour.

5. The parties also blame each other for the length of the proceeding. Mr Ivanov complains the Mr Kiselman improperly brought Claim SC-23-1888. That proceeding, he alleged, involved a wide-ranging claim involving four transactions and many legal theories that required significant preparation and a full defence.

6. Mr Kiselman points out that Mr Ivanov's bringing of a barred claim in SC-23-1804 required a defence, a Defendants' Claim and a second day of trial.

7. Next, both parties point to portions of the main decision in which the other was found to lack credibility or their evidence was rejected as unreliable.

8. The one party who does not blame the others is the defendant to the Defendants' Claim in SC-23-1804-D1, Ms Shoikhedbrod. She merely seeks the \$500 available to a self-represented litigant under Rule 19.05 and her disbursements.

III. ANALYSIS

A. Divided Success

9. As between the two main parties this is a classic case of divided success. It is a case where both parties can be said to have behaved improperly and to have prolonged the proceedings. In accordance with well established principles concerning costs, as between Mr Ivanov and Mr Kiselman, the Court finds that this is a case where the Court would normally order each of these litigants, and the corporations they each control, to bear their own costs.

See: *Magder v. Ford*, 2013 ONSC 1842 at para 7; *Holtby v. Draper*, 2018 ONCA 231 at paras 15 to 16; *Brown v Rigsby*, 2016 ONCA 521 at para 20; *Westenberg v Dhanda*, 2007 BCSC 1243 at para 58

10. Nor is this one of those rare and unusual situation that warrants a “distributive costs” order.

11. Distributive costs allow for the Court to order a party to pay costs for the part of the trial in which he was successful, but not for the issues on which he was unsuccessful. The Ontario Court of Appeal has, however, frowned on distributive costs orders. In *Murphy v. Alexander*, 2004 CanLII 15493 at para 72 (ON CA):

[72] The trial judge appears to have regarded the proposition that Professionals not be held liable for Murphy’s costs of prosecuting his claims against RE/MAX Ontario as an invitation to make a distributive costs order. Under that approach to the allocation of costs, the major issues at trial are identified and the party who is successful on each issue is awarded costs for the time and expense attributable to that issue. In *Armak Chemicals Ltd. v. Canadian National Railway Co.* (1991), 1991 CanLII 7060 (ON CA), 5 O.R. (3d) 1 (C.A.), leave to appeal to S.C.C. refused [1992] 1 S.C.R. vi, **this court generally rejected the appropriateness of distributive cost orders in litigation involving multiple issues where success is divided**, on the basis that such orders are inconsistent with the rules of procedure concerning offers to settle. Although the possibility of a distributive costs order is not completely foreclosed in a proper case, such an order will be appropriate only in rare circumstances, if at all: *Skye v. Matthews*, 1996 CanLII 1187 (ON CA), [1996] O.J. No. 44 at paras. 15 and 19 (C.A.).

12. It is often the case in litigation that success is mixed. In some cases, the Court will discern which party was significantly or markedly more successful overall and award costs to the more successful litigant. See: *Ganie v. Ganie*, 2015 ONSC 2997 at para 25; *Boland v. Boland*, 2012 ONCJ 239 at para 2; *King v. McPherson-King*, 2019 ONCA 554 at para 11.

13. This is not a case where one of the two main parties was significantly or markedly more successful. Accordingly, the divided success would normally warrant that Mr Ivanov and Mr Kiselman bear their own legal costs and disbursements.

14. There is, however, one aggravating factor in the case at bar that requires that there be an exception to the general principle that divided success and inappropriate conduct by both opposing parties support a no costs order.

B. Suspected Use of Artificial Intelligence

15. On page A-1-53 of the Record in the *Ivanov v Kiselman* case (SC-23-1804) the paralegal representing Mr Ivanov, Ms Derya Vural, stated in her written submission to

the Court, that section 13 of the *Statute of Frauds* RSO 1990, c. S.19 requires “agreements for commissions in connection with the sale or purchase of real estate property to be in writing and signed to be enforceable”.

16. There is no Section 13 in the *Statute of Frauds*, RSO 1990, c. S19.

17. As I set out a paragraphs 87 and 88 of the main Reasons for Judgment, the last time the *Statute of Frauds* contained a provision expressly listing commissions on the sale of land was in 1946. Further, no other section in the current *Statute of Frauds* expressly states that agreements for commissions on real estate must be in writing.

18. Also, on page A-1-53 of the Record, Ms Vural cites four cases. The first one is called *Sandler v. Goldstein*, 2007 ONCA 153. She submits that this case holds “that commission cannot be claimed without a written agreement signed by the client”.

19. However, the case found at 2007 ONCA 153 is *Re DeFilippis*, 2007 ONCA 153 which is a bankruptcy case and has nothing to do with real estate commissions.

20. A search for a case with the name *Sandler v. Goldstein*, or a similar name, was entered into the search engine in CanLII and Quick Law. No case of that name was found.

21. Ms Vural’s written submissions then cite a second case as follows:

Sutton Group Admiral Realty Inc. v. Taborovska, 2021 ONSC 1747 - court held that a claim for commission failed where no written BRA was produced.

22. However, the case found at 2021 ONSC 1747 is *Rogers Estate v Rogers*. This is an estate case and has nothing to do with real estate commissions. Here, a search for a case with the name *Sutton Group Admiral Realty Inc. v. Taborovska* from 2021 turned up two cases: *Sutton Group Admiral Realty Inc. v. Taborovska* 2021 ONSC 2837 and *Sutton Group Admiral Realty Inc. v. Taborovska*, 2021 ONSC 5054. The first case does deal with real estate commissions but does not hold that a written BRA was not produced. In that case there was a written BRA but the defendant was misled as to its content and succeeded in a *non est factum* defence. The latter case deals with the awarding of costs for the first case and does not address commissions at all..

23. Ms Vural’s written submission cites a third case:

Re/Max Realtron Realty Inc. v. Hogue, 2003 CanLII 52184 (ONSC) - “the requirement of a signed agreement is a condition precedent to a claim for commission.”

24. The actual case at this citation is *Meditrust Healthcare Inc. v. Shoppers Drug Mart*, 2003 CanLII 52148 (ON CA). And, while there are seven cases with Re/Max Realtron Realty Inc as plaintiff none of them are from 2003, none of them have a

defendant named Hogue, and none of them deal with a written requirement for commissions.

25. Ms Vural produced in Court a different case, *Re/Max Realtron Realty Inc. v. 2458313 Ontario Inc.*, 2021 ONCA 715 which does not discuss or deal with a written agreement as a pre-condition for receiving a commission.

26. Ms Vural then cites a fourth case:

Royal LePage Real Estate Services Ltd. v. 2161792 Ontario Inc., 2020 ONSC 4785 - the court awarded the full commission to the first brokerage where the buyer used another brokerage to complete the purchase during the term of the BRA.

27. However, the case at 2020 ONSC 4785 is *Kinsella v. Mills*, 2020 ONSC 4785 which is a family law case. A search for *Royal LePage Real Estate Services Ltd. v. 2161792 Ontario Inc.* turned up no case with that name.

28. On page A-1-54 of the Record Ms Vural includes two more cases that do not appear to exist. First. She writes:

Sutton Group Incentive Realty Inc. v. Klundert, 2014 ONSC 7395 - upheld damages for breach of BRA where buyer circumvented brokerage

29. However, there is no case at 2014 ONSC 7395. And a search did not turn up a case named *Sutton Group Incentive Realty Inc. v. Klundert*.

30. Ms Vural did produce a case called *Sutton Group Admiral Realty Inc. v. Taborovska*, 2021 ONSC 2837 which upheld a *non est factum* defence and did not uphold damages for circumventing a BRA agreement with a broker. Indeed, the Court dismissed the claim for damages.

31. The final case in issue is:

Westmerc Commercial Properties Ltd. v. MacDonald, 1998 CanLII 14941 (ONSC) - veil pierced where corporation was used to shield an individual from contractual liability.

32. In fact, the case found at this citation is *R. v. Alibhai*, 1998 CanLII 14941 which deals with criminal procedure at a preliminary hearing. No case could be found with the name: *Westmerc Commercial Properties Ltd. v. MacDonald*.

33. Justice Myers made the following comments in *Ko v. Li*, 2025 ONSC 2766, a case involving a similar situation. In my view, these comments are just as applicable to a paralegal as they are to a lawyer. His honour wrote:

14 This occurrence seems similar to cases in which people have had factums drafted by generative artificial intelligence applications (like ChatGPT). Some of these applications have been found to sometimes create fake legal citations that have been dubbed "hallucinations." It appears that Ms. Lee's factum may have been created by AI and that before filing the factum and relying on it in court, she might not have checked to make sure the cases were real or supported the propositions of law which she submitted to the court in writing and then again orally.

15 All lawyers have duties to the court, to their clients, and to the administration of justice.

16 It is the lawyer's duty to faithfully represent the law to the court.

17 It is the lawyer's duty not to fabricate case precedents and not to mis-cite cases for propositions that they do not support.

18 It is the lawyer's duty to use technology, conduct legal research, and prepare court documents competently.

19 It is the lawyer's duty to supervise staff and review material prepared for her signature.

20 It is the lawyer's duty to ensure human review of materials prepared by non-human technology such as generative artificial intelligence.

21 It should go without saying that it is the lawyer's duty to read cases before submitting them to a court as precedential authorities. At its barest minimum, it is the lawyer's duty not to submit case authorities that do not exist or that stand for the opposite of the lawyer's submission.

22 It is the litigation lawyer's most fundamental duty not to mislead the court.

27 With the sudden advent of AI, this has quickly become a very important issue.

30 Ms. Lee may have committed grave breaches of her duties that may amount to contempt in the face of the court.

31 I order Ms. Lee to show cause why she should not be cited for contempt.

34. In subsequent proceedings in the same case, Myers J added the following in *Ko v. Li*, (2025) ONSC 2965 at paras 14 to 19:

[14] Irrespective of issues concerning artificial intelligence, counsel who misrepresent the law, submit fake case precedents, or who utterly misrepresent the holdings of cases cited as precedents, violate their duties to the court.

[15] I agree with Masuhara J. in *Zhang v Chen*, 2024 BCSC 285 (CanLII):

Citing fake cases in court filings and other materials handed up to the court is an abuse of process and is tantamount to making a false statement to the court. Unchecked, it can lead to a miscarriage of justice.

[16] A court decision that is based on fake laws would be an outrageous miscarriage of justice to the parties and would reflect very poorly on the court and the civil justice system.

[17] In determining and pronouncing the law applicable to its decisions, the court receives submissions from counsel concerning the applicable law. As discussed below, the court relies on counsel to state the law accurately and fairly. Misrepresentation of the law by a lawyer poses real risks of causing a miscarriage of justice that undermines the dignity of the court and the fairness of the civil justice system.

[18] In my prior endorsement, I listed several duties that may be violated by a lawyer delivering a factum and making oral submissions relying on fake cases and mis-citing cases for propositions that have nothing to do with the actual issues and holdings of the cases. For clarity however, it seems to me useful to note that some of the duties that I listed are not necessarily duties owed to the court.

[19] The Law Society of Ontario remains the regulator of licenced lawyers and paralegals in Ontario. The Law Society regulates the professional duties of lawyers in addition to their duties to the court.

...

[21] In a court proceeding however, the proverbial buck stops with counsel. All counsel (and not just senior counsel on the file) bear responsibility for the accuracy of their submissions and for any misrepresentations they may make by signing, delivering, and relying on fake or false legal precedents and arguments.

[22] Counsel may not mis-state or misrepresent the law to the court whether by way of AI hallucinations or by any other means.

35. On June 15, 2023, Chief Justice Morawetz issued a Practice Direction on *The Use of Artificial Intelligence (AI) for Court Proceedings*. Relevant parts include:

Maintaining the integrity of the justice system is the shared responsibility of all justice sector participants. As officers of the court, lawyers play a pronounced role in ensuring its fair and proper administration. Without exception, however, it

is the responsibility of all counsel and litigants to guarantee accuracy when preparing materials for use in court proceedings, and particularly when using AI, regardless of whether they directly interacted with the technology. The misuse of AI is detrimental to the justice system and can occur in any number of ways. Most often, it occurs when counsel or litigants carelessly rely on fictitious authorities generated by AI, commonly referred to as "hallucinations". Hallucinations can consist of non-existent cases, mischaracterizations of case law, and fabricated quotations. To avoid these risks, counsel and litigants must exercise careful, informed, and ongoing oversight at all times when they or their staff use AI for court proceedings. The court will not tolerate inadvertence in this regard. . . .

Potential Sanctions for Misuse of Artificial Intelligence for Court Proceedings

The court has a range of powers to ensure that counsel and litigants comply with their duties to the court. Where those duties are not complied with, the court's powers include, but are not limited to, public reprimand of the counsel or litigant, the imposition of cost orders, adjourning a hearing or dismissing the matter, the initiation of contempt proceedings, and in regards to counsel, referral to the Law Society of Ontario. In each instance, the court's response will depend on the specific facts and circumstances of the case.

36. In the case at bar, at the end of the first day of trial, the Court had reviewed a few of the citations in Ms Vural's written submissions and advised that there was a concern. By the morning of the second day of trial the Court had by then reviewed all of the citations. The Court asked that the parties and witnesses leave the courtroom and only Ms Vural and Mr Kelly remained. I brought to Ms Vural's attention the Court's concern with the misleading and non-existent citations in her written submissions. Ms Vural stated that she did not use Artificial Intelligence software in the writing of her submissions. She had thought that the cases she relied upon were in a text or publication that she had reviewed. The Court gave Ms Vural the opportunity to show cause that she did not intend to mislead and to explain why the non-existent cases populated her written submission which included giving her the opportunity to locate that source publication. If she could not do so on that trial date, I asked her to address it in her written submissions on costs.

37. Ms Vural failed to do so.

38. In her first set of written submissions on costs, dated January 16, 2026, Ms Vural did not provide a source publication. Indeed, she did not provide any explanation for the non-existent cases and statutory reference. This was the case even though the Court had identified this information as essential and even though she was aware that opposing counsel, Mr Kelly, intended to rely upon her alleged misconduct in his submissions on costs.

39. Her second written submission on costs, dated January 28, 2026, were in reply to Mr Kelly's written submissions on costs. Ms Vural still does not provide an explanation. She writes that Mr Kelly's position that these non-existent cases are fabrications are "serious allegations" that "are not established on the record and shouldn't be used to justify penalty costs". Ms Vural further submits:

Second, to the extent any citation or authority was incorrect, Ivanov/Hometrade submit this was error, not fabrication. There was no intent to mislead the Court. Mistakes in legal citation, while regrettable, are not without more, proof of dishonesty ...

40. Finally, she states that her client should not be punished "for what is framed as professional negligence by their representative."

41. The Court noted that the non-existent case names that purport to stand for a legal proposition favourable to Ms Vural's position in the litigation have all of the hallmarks of the "hallucinations" described by Justice Myers in *Ko v. Li*. Ms Vural's statement that the fabrication allegations "are not established on the record" is incorrect. By directing her to show cause the Court was placing the onus on Ms Vural to establish that these were not generated by Artificial Intelligence software. The onus was not on Mr Kelly or his clients to prove that they were. Ms Vural's statement that mistakes in legal citations are not, without more, proof of dishonesty once again fails to appreciate that she was to show cause why, what has all the characteristics of Artificial Intelligence generated falsehoods, was not what, *prima facie*, it appeared to be. Finally, Ms Vural is quite right that her client should not be punished for the content of her written submission. Fortunately, Rule 19.06 remedies that problem.

42. The use of Artificial Intelligence is a scourge on the administration of justice in the province. Providing non-existent cases with a citation that belongs to another case entirely, citing sections of a statute that do not exist, and stating that these non-existent citations stand for a point of law that is favourable to one's claim, is not only misleading, but also a fraud upon the Court.

43. It is also a growing problem. Damien Charlotin, in his online publication [AI Hallucination Cases](#) has compiled a list of approximately 850 court decisions (57 in Canada) where counsel or a self-represented party were found to have used AI-hallucinated case law in their court filings.

44. While the Chief Justice's Practice Direction refers to a number of possible consequences for this conduct, for present purposes this Court is currently considering the question of costs only.

45. Prior decisions of this Court appear to be split as to whether the Small Claims Court can rely on Rule 57.07(1)(c) of the *Rules of Civil Procedure* to order that a solicitor personally pay costs. See: *Radhi v Ajram*, 2022 CanLII 44112 at paras 26 to 28

(ON SCSM) and *Etoile Betoukoumessou v Baswe*, 2022 CanLII 139328 at para 16 (ON SCSM).

46. In my view, I need not rely on Rule 57.07 to make such an Order. That is because Rule 19.06 of the *Rules of the Small Claims Court* permits a costs award against a party's representative, which include a paralegal. Rule 19.06 provides:

19.06 If the court is satisfied that a party or a party's representative has unduly complicated or prolonged an action or has otherwise acted unreasonably, the court may order the party ***or the party's representative*** to pay an amount to another party as a penalty, as provided by section 29 of the *Courts of Justice Act*. [emphasis added]

47. To the same effect is section 29 of the *Courts of Justice Act*:

29 An award of costs in the Small Claims Court, other than disbursements, shall not exceed 15 per cent of the amount claimed or the value of the property sought to be recovered unless the court considers it necessary in the interests of justice **to penalize a party or a party's representative** for unreasonable behaviour in the proceeding.

48. In *Serodio v. White*, [1994] O.J. No. 464 at para 6 (Sm Clms Crt) Searle DJ held:

Section 131 of the *Courts of Justice Act* puts the costs of a proceeding, or a step therein, in the discretion of the Court. Section 29 of that Act deals specifically with the Small Claims Court in limiting costs in this Court unless the Court considers it necessary "to penalize a party, counsel or agent [now "a party or a party's representative"] for unreasonable behaviour in the proceeding." By strong implication Section 29 permits a judge or deputy judge of the Small Claims Court to award costs personally against a counsel or agent in a fashion similar to Rule 57.07 of the *Rules of Civil Procedure*. It is therefore within the power of a judge or deputy judge of this Court to award costs personally against counsel in a proceeding in this Court.

49. I have given Ms Vural an opportunity to show cause and explain in her written cost submissions what happened and to provide the other source document she referred to in Court. She has not done so. Stating that it was not her intention to mislead is not enough. She does not suggest that someone else wrote her impugned submissions and she failed to double check that work. Nor does she appear to take responsibility for her work product.

50. Mr Kelly, in his submissions, advises that in looking for one of the purported case cited by Ms Vural, he "used every available legal platform and also attended the Great Library of the Law Society to go through the physical records of all matters heard that year." Like the Court, he expended considerable effort to find the caselaw cited, but to no avail.

51. Accordingly, this Court holds that there should be a penalty under section 29 of the *Courts of Justice Act* and Rule 19.06 requiring Ms Vural personally to pay that penalty to Mr Kiselman's representative in trust.

C. Ms Shoikhedbrod's Claim Under Rules 19.01 and 19.05

52. The one truly successful party in these proceedings was Ms Shoikhedbrod. The Defendants' Claim against her was dismissed in its entirety. She is entitled to recover under Rule 19.05:

The court may order an unsuccessful party to pay to a successful party who is self-represented an amount not exceeding \$500 as compensation for inconvenience and expense.

53. In addition, under Rule 19.01 she is entitled to recover her disbursement of \$40 for two days of parking, \$77 filing fee for her defence to the Defendants' Claim, another \$18.50 for her process servers' parking and making photocopies of the documents served. While she also was charged \$80 for the service by the process server, I am restricted to reimbursing a maximum of \$60 for each person served because of Rule 19.01(3). However, as the Defence to the Defendants' Claim was served on two persons (albeit at the same address), Mr Kiselman and Viva, I will include the full \$80.

54. The total amount is \$725.90. This should be paid by Mr Kiselman and Viva as they brought the Defendants' Claim against Ms Shoikhedbrod.

IV FINAL ENDORSEMENT

55. For the reasons given in the main judgment of January 5, 2026, all three Claims, including the Defendants' Claim, in SC-23-1804, SC-23-1804D1, SC-23-1888, are dismissed.

56. Mr Kiselman and Viva shall pay Ms Shoikhedbrod the amount of \$725.90 pursuant to Rules 19.01 and 19.05. Such payment shall be made on or before February 14, 2026. If she consents, payment may be made by e-transfer to her email address of ELENASREALTOR.613@GMAIL.COM. Otherwise the parties can work out a payment arrangement.

57. Ms Derya Vural, licensed paralegal, of Vural Legal Services Professional Corporation, is to personally pay \$2,000 to "Dakota Kelly In Trust" of Austin Lake Legal Services, licensed paralegal, pursuant to Rule 19.06 and section 29 of the *Courts of Justice Act*. Such payment shall be made on or before February 14, 2026 through a method worked out between Ms Vural and Mr Kelly.



Hart Schwartz DJ

January 29, 2026