COURT FILE NO.: CV-23-00000206
DATE: 2025/08/25

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:	)	
Royal Bank of Canada	)	
Plaintiff	)	Gregory W. Bowden, for the Plaintiff
– and –	)	
Israa Mahdi Raheem Al-Kubaisi, Sava Motor Works Inc. and George Khoury	)	Daniel Litsos, for the Defendants, Sava Motor Works Inc. and George Khoury
Defendants	)	
	)	**HEARD:** July 21, 2025

RULING ON MOTION FOR SUMMARY JUDGMENT

THE HONOURABLE JUSTICE A.D. HILLIARD

[1] The Plaintiff (RBC) moves for summary judgment against the Defendants, Sava Motor Works Inc. (Sava) and George Khoury. Default judgment has already been obtained by RBC against the Defendant, Israa Mahdi Raheem Al-Kubaisi. The Defendants, Sava and Mr. Khoury, resist the motion for summary judgment arguing that there are genuine issues for trial.

[2] For the reasons that follow, RBC's motion for summary judgment is granted.

Factual Background

[3] RBC is a Canadian Bank. Sava is a corporation in the business of repairing motor vehicles. Mr. Khoury is the sole director of Sava, as listed on the company's corporate profile.

[4] Israa Mahdi Raheem Al-Kubaisi purchased a 2018 Maserati Ghibli on March 2, 2022 from Toronto Auto Brokers. The total purchase price was $64,323.80. After a downpayment of $20,000, the amount financed by RBC was $44,373.80. Bi-weekly payments were to be made in the amount of $347.66 commencing March 16, 2022. The anticipated maturity date was February 23, 2026.

[5] Mr. Al-Kubaisi started defaulting on his bi-weekly payments in January 2023 and did not make any other payments to date.

[6] Prior to commencing this claim, RBC made efforts to locate the Maserati to repossess it as a result of the default, which efforts were initially unsuccessful. Eventually RBC discovered that the Maserati was in the possession of Sava. Mr. Khoury advised RBC that Sava had a lien on the Maserati for repairs to the vehicle not paid by Mr. Al-Kubaisi. Mr. Khoury refused to provide RBC with access to the Maserati, instead retaining the vehicle in a secure location.

[7] Sava then issued a Notice of Sale pursuant to the *Repair and Storage Liens Act* (*RSLA*). However, the Maserati was not sold by Sava but rather the ownership of the vehicle was transferred to itself and then, ostensibly, to a third party.

[8] The VIN history as of June 5, 2023 show the transfer of ownership to Sava on May 17, 2023 as the last transfer of title for the Maserati.

Analysis

Motion for Summary Judgment

[9] The test on summary judgment is well settled:

> There will be no genuine issue requiring a trial when the judge is able to reach a fair and just determination on the merits on a motion for summary judgment. This will be the case when the process (1) allows the judge to make the necessary findings of fact, (2) allows the judge to apply the law to the facts, and (3) is a proportionate, more expeditious and less expensive means to achieve a just result.[1]

[10] In order for RBC to be successful on its motion, it must demonstrate that there is no genuine issue for trial on whether Sava had a valid lien under the *RSLA*, whether Mr. Khoury should be found to be personally liable for the corporate actions of Sava, and the quantum of damages sought.

Valid Lien under the *RSLA*

[11] A lien pursuant to the *RSLA* is a creature of statute and must therefore strictly comply with the provisions of the Act. If Sava did not comply with the *RSLA* then retaining the Maserati was an act of conversion.

[12] In order for Sava to have a valid lien pursuant to the *RSLA* it must be able to demonstrate the following:

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[1] *Hryniak v Mauldin*, [2014] 1 SCR 87 at para 49

1. that it qualifies as a "storer" as defined in the *RSLA*

2. that it complied with the procedural requirements for the transfer or sale of the Maserati

[13] The definition of a "storer" under the *RSLA* is:

> "storer" means a person who receives an article for storage or storage and repair on the understanding that the person will be paid for the storage or storage and repair, as the case may be."

[14] In this case, Sava must demonstrate that it actually completed repairs on the Maserati for the lien to be valid. The only evidence filed in support of the repairs to the Maserati is a work order and an invoice. The work order does not have any amounts noted for labour, storage or parts. The invoice is for "Repair As Per Estimate" $30,000 and storage for sixty (60) days at $85 per day for a total of $5,100.

[15] Sava did not produce any photographs of the work completed on the Maserati or any other paperwork to demonstrate that repairs on the Maserati were completed. There is nothing to indicate what repairs were completed on the Maserati to justify the $30,000 invoice. Although the invoice refers to an estimate, no such document was filed on the motion.

[16] I have also considered that the document produced by Sava to demonstrate the Maserati was sold to a third party indicate that he vehicle was sold "as-is" despite $30,000 of repairs allegedly having been completed.

[17] Under the Regulations for the *Costs of Distress Act*, the maximum amount that can be charged for storage is $10 per day. Sava is claiming $85 per day without any justification as to how this amount could be charged.

[18] I am not satisfied that Sava has demonstrated that it completed any repairs to the Maserati so as to qualify as a storer pursuant to the *RSLA*. I am also not satisfied that Sava has demonstrated that it received the Maserati for storage on the understanding that it would be paid for that storage. In addition, the invoice for storage is grossly exaggerated without justification.

[19] If Sava had a genuine lien under the *RSLA*, they would then have two options: sell the vehicle or keep the vehicle. Different procedures apply depending on which option Sava chose.

[20] In this case, Sava issued a Notice of Intention to Sell but then transferred the vehicle to itself rather than selling it to an arm's length third party. If Sava wished to retain the Maserati, it needed to comply with the provisions in section 17 of the *RSLA*.

[21] Sava argues that RBC had notice of Sava's intention to sell and did not act within the 15 days prescribed by the *RSLA*. Sava further submits that although it did not strictly comply with the provisions of the *RSLA* for retaining the Maserati, the limitation period applicable

to retention of the vehicle was complied with – 30 days, and after the vehicle was transferred to Sava it was then sold to a third party as contemplated in the notice of Intention to Sell which was duly served on RBC.

[22] Liens under the *RSLA* take precedence over every other claim. As a matter of policy, it is essential that *RSLA* lien claimants are held to strict compliance with the law.

[23] Having not issued notice of its intention to retain the Maserati, even if Sava had a valid *RSLA* lien, it was not entitled to transfer the Maserati to itself at any time, regardless of whether the requisite period for objections had passed.

[24] Furthermore, the alleged sale of the Maserati to a third party on May 18, 2023 did not comply with the sale requirements, specifically the Maserati was not sold by way of a public sale or at a public auction. Mr. Khoury confirmed in his examination that he did not advertise the vehicle for sale, nor did he obtain an appraisal of the Maserati before transferring it and reselling it.

[25] Sava has an obligation to put its best foot forward on a motion for summary judgment. There is a dearth of evidence filed in support of its position. Mr. Khoury also refused to answer direct questions during examinations about financial transactions in relation to the proceeds of sale of the Maserati and no documents were ever produced despite multiple requests.

[26] I find that there is no genuine issue for trial on whether Sava had a valid lien pursuant to the *RSLA*. Similarly, there is no genuine issue for trial on whether Sava disposed of the Maserati in accordance with the statutory scheme. There is ultimately no dispute that Sava did not strict comply with the provisions of the *RSLA*.

[27] Having not demonstrated a valid lien and compliance with the *RSLA* for disposition of the Maserati, I find that Sava had committed the tort of conversion.

Piercing the Corporate Veil

[28] On the issue of whether the corporate veil should be pierced and Mr. Khoury ought to be found personally liable, there is again a complete lack of evidence presented by the Defendants to dispel RBC's claim that Sava and Mr. Khoury are really one and the same.

[29] The test for piercing the corporate veil was recently reaffirmed by the Court of Appeal in *FNF Enterprises Inc. v. Wag and Train Inc.*:

> **18** The test for piercing the corporate veil in Ontario is that set out in *Transamerica Life Insurance Co. of Canada v. Canada Life Assurance Co.* (1996), 28 O.R. (3d) 423 (Gen. Div.), aff'd [1997] O.J. No. 3754 (C.A.). That case set out a two-part test, at pp. 433-34: "courts will disregard the separate legal personality of a corporate entity where it is completely dominated and controlled and being used as a shield for fraudulent or improper conduct." See also *Yaiguaje v. Chevron Corporation*, 2018 ONCA 472, 141 O.R. (3d) 1, at paras. 36, 65-71.

19 In *Yaiguaje*, at para. 70, the majority stated:

> The *Transamerica* test is consistent with the principle reflected in the various business corporation statutes in Canada that corporate separateness is the rule. Where the corporate form is being abused to the point that the corporation is not a truly separate corporation and is being used to facilitate fraudulent or improper conduct, the law recognizes an exception to this rule.

20 The first element of the *Transamerica* test requires not just ownership or control of a corporation, but complete domination or abuse of the corporate form. The second element requires fraudulent or improper conduct, and contemplates that it is that conduct that has given rise to the liabilities the plaintiff seeks to enforce. Where those two elements are present, the corporate veil will be lifted to prevent the person who engaged in that conduct from asserting that the liabilities the fraudulent or improper conduct gave rise to are those of the corporation only.[2]

[30] There is no dispute that Mr. Khoury is the sole director of Sava and is the directing mind of the corporation. There is no evidence that there are any other directors or officers of Sava, or any other individuals that even have an ownership interest in Sava, other than Mr. Khoury.

[31] It is also relevant that Mr. Khoury admitted during his examination that "it's not the first car we do", when asked about transferring vehicles pursuant to *RSLA* lien claims. Mr. Khoury confirmed that he transfers vehicles to himself or Sava when customers do not pay their bills. This evidence supports an inference that Mr. Khoury is using Sava for improper conduct in relation to taking possession of motor vehicles without adhering to the proper procedure under the *RSLA*.

[32] I have also considered the argument of RBC that Mr. Khoury intentionally interfered in the contractual relations between RBC and Mr. Al-Kubaisi. It is not disputed that Mr. Khoury was aware of the contract between RBC and Mr. Al-Kubaisi. By advancing an unjustified lien claim under the *RSLA*, and subsequently retaining possession of the Maserati, Mr. Khoury prevented Mr. Al-Kubaisi from giving possession of the Maserati to RBC as per the terms of the financing contract. The intentional interference with contractual relations is improper conduct by Sava at the direction of Mr. Khoury.

[33] There is no genuine issue for trial as to whether or not the corporate veil should be pierced. I am satisfied that there is sufficient evidence before me to find that Sava is completely dominated and controlled by Mr. Khoury and is being used by him as a shield for improper conduct.

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[2] [2023] O.J. No. 631 at para 18 – 20.

Damages

[34] The uncontradicted evidence of RBC is that the value of the Maserati as at November 14, 2022 was $42,088.

[35] Having found that there is no evidence to support the invoice for repairs and storage, I find that Sava and Mr. Khoury were unjustly enriched by retaining the Maserati. Even if the invoice submitted was supported by evidence, the total amount still does not exceed the undisputed value of the Maserati.

[36] RBC has been deprived of the loss of the Maserati, which was collateral for money loaned, and Sava and Mr. Khoury were correspondingly enriched for no juridical reason.

[37] Damages will therefore be assessed at $42,088.

Conclusion

[38] Having found that there is no genuine issue for trial on the issue of whether Sava had a valid lien on the Maserati and whether or not Mr. Khoury should be found personally liable in addition to Sava, summary judgement shall issue as requested by RBC.

[39] Damages for conversion and intentional interference with contractual relations by both Sava and Mr. Khoury will be set at $42,088.

[40] I am also satisfied that judgment should issue ordering the return of the Maserati to RBC, along with an accounting of all money earned by the Defendants Sava and Mr. Khoury, and payment to RBC of all such sums so earned.

[41] The Plaintiff having indicated that in the event of success, it is relying upon its Costs Outline filed, responding costs submissions by the Defendants and reply submissions may be filed as follows:

1. Respondent submissions by the Defendants, no longer than 3 pages in length, double-spaced, 12-point font, exclusive of Offer(s) to Settle, on or before September 8, 2025

2. Reply by the Plaintiff, no longer than 2 pages in length, double-space, 12-point font, exclusive of Offer(s) to Settle, on or before September 15, 2025.

[42] Judgment to issue as follows:

As against the Defendants Sava Motor Works Inc. and George Khoury:

1. Damages for conversion, intentional interference with contractual relations and unjust enrichment in the amount of $42,088.

2. The Defendants shall return to the Plaintiff a 2018 Maserati Ghibli motor vehicle bearing the Vehicle Identification Number ZAM57XSA6J1278604 (the Maserati).

3. An accounting of all money earned by the Defendants from the use of the Maserati, and payment to the Plaintiff of all such sums so earned.

4. Prejudgment interest from July 26, 2023 and post-judgment interest pursuant to the *Courts of Justice Act*.

As against the Defendant, George Khoury:

5. Damages for intentional interference with contractual relationship in the amount of $42,088.

6. Prejudgment interest from July 26, 2023 and post-judgment interest pursuant to the *Courts of Justice Act*.

A.D. Hilliard

Released: August 25, 2025

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BETWEEN:

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Plaintiff

– and –

Israa Mahdi Raheem Al-Kubaisi, Sava Motor Works Inc. and George Khoury

Defendants

REASONS FOR JUDGMENT

A.D. Hilliard, J.

Released: August 25, 2025