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Court orders law firm to disclose client's banking information

By **James R.G. Cook**

Law360 Canada (December 4, 2025, 11:30 AM EST) -- Parties may occasionally seek disclosure of information or documents from another party's lawyer during the course of litigation. In such cases, solicitor-client privilege as well as a general duty of confidentiality must be considered. Lawyers who receive a request for disclosure of privileged information by a non-client will generally require that a court order for disclosure be obtained. The court may then assess the circumstances at issue before determining whether the information ought to be disclosed notwithstanding any potential infringements upon solicitor-client privilege.

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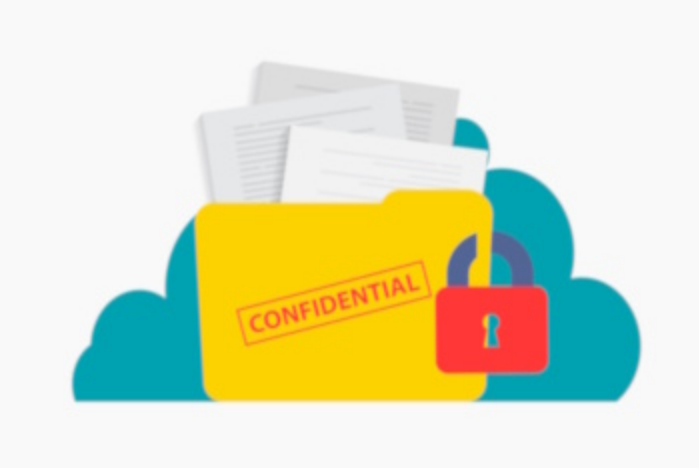
These circumstances were illustrated by the Ontario Superior Court of Justice in *Stajic v. Wayland Group*, 2025 ONSC 6393, which involved a motion for disclosure of privileged information during the course of an ongoing action during which the court had previously issued an *ex parte Norwich* order (for disclosure of information and documents) and a *Mareva* injunction against one of the defendants.



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The defendant had not defended the action and was noted in default. He failed to respond to all attempts to serve him and to notify him of the action through his former lawyers, his family members, his business associates, financial institutions with which he is known to have done business, and the securities regulators with whom he was engaged. Financial records obtained by the plaintiffs showed that the defendant previously had millions of dollars in various accounts, all of which had now vanished.

In their efforts to enforce the *Mareva* injunction, the plaintiffs sought information from a law firm that previously represented the defendant. Specifically, the plaintiffs sought disclosure as to what bank account the defendant used to pay the law firm's fees.

While the law firm was no longer acting for the defendant, it took the position that the terms of the existing disclosure order did not require them to divulge that information. The firm's counsel pointed

out that the terms of the order required freezing any assets or funds belonging to the defendant and required that banks and financial institutions divulge his account information. However, the terms did not state that a law firm must give away information regarding its former client. The firm's counsel suggested the plaintiffs were required to bring a separate motion so they could serve the defendant with it, and he could have a chance to argue the privilege point.

Counsel for the firm submitted that the information sought by the plaintiffs might fall under the umbrella of solicitor-client privilege, referencing the Ontario Superior Court of Justice decision in *Sakab Saudi Holding Co. v. Al Jabri*, 2024 ONSC 1601 at para. 26, which stated that "a law firm's administrative information and accounting records relating to the solicitor and client relationship, including records showing the identity of persons paying the lawyer's bills, are presumptively privileged."

The motion judge noted that although the banking information sought by the plaintiffs was not intended to be used to investigate any particular matter for which the defendant retained his former lawyers, issues of solicitor-client privilege did "potentially hang over the request." In that regard, the mere name or location of the bank used by a client might reveal the geographic location of a property or transaction for which the client retained the law firm.

Disclosure of banking information might therefore tread on privileged information that a law firm should not divulge without a client's consent.

However, the motion judge further noted that, as discussed in *106307 Ontario Inc. v. Wang*, 2022 ONSC 7288 at para. 44, litigants cannot generally hide their assets using privilege as an excuse to do so. If the account identification is information that the party could be asked for in an examination in aid of execution, it is not privileged.

In making this assessment, the key question is whether the clients themselves, if they were the witness, could, on the grounds of solicitor-client privilege, refuse to disclose particulars of a transaction directed by them through their solicitor's trust account: "The solicitor-and-client privilege does not enable a client to retain anonymity in transactions in which the identity of the participants has become relevant in properly constituted proceedings" (see also *Ontario (Securities Commission) v. Greymac Credit Corp.*, [1983] O.J. No. 270).

The motion judge confirmed that the law firm's objection to disclosure of the banking information was the proper course of action for a law firm in their position and that they had fulfilled their obligation to their former client by requiring a court order.

Having said that, the motion judge was prepared to order that the firm divulge the banking information sought by the plaintiffs as he was satisfied in the circumstances that the interests of justice favoured granting the order sought.

In that regard, the plaintiffs represented a putative class of investors who claimed large-scale losses as a result of the defendant's wrongdoing. The *Mareva* injunction was issued against him in an effort to protect those investors from any further dissipation of assets. What the plaintiffs sought was a limited amount of information that did not include the nature of the law firm's retainer, the subject matter that it covered, any description of the work performed, or any description of the amount of work performed. The order was required only because of the defendant's refusal to meet his legal obligations.

Under the circumstances, the interests of justice very much favoured extending the *Mareva* order to include the identity of the bank, its address and the account number from which the defendant paid fees to any law firm.

In the result, the court ordered that the disclosure order be expanded to include the information from the defendant's former lawyers.

The case demonstrates the balancing between the interests protected by solicitor-client privilege and the rights of party to obtain information otherwise protected by such privilege. In the motion judge's view, the theoretical possibility that the banking information sought by the plaintiffs might breach some element of privilege was greatly outweighed by the disappearance of the defendant and the

vanishing of his funds in the face of claims by thousands of investors.

While solicitor-client privilege is sacrosanct in Canadian Law, the plaintiffs were able to persuade the court that an order for disclosure of the banking information from the law firm should be made in the circumstances of the case.

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