CITATION: COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO v. BENTUM

ONTARIO SUPERIOR COURT OF JUSTICE (TORONTO REGION)

CIVIL ENDORSEMENT FORM

(Rule 59.02(2)(c)(i))

BEFORE	**Judge**	**Court File Number**:
	JUSTICE AKAZAKI	**CV-23-00698482-0000**

Title of Proceeding:

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO Applicant

-v-

BENTUM Respondent

Case Management: ☐ **Yes** If so, by whom:	**No**

Participants and Non-Participants:*(Rule 59.02(2)((vii))*

Party	Counsel	E-mail Address	Phone #	Participant (Y/N)
1) **Applicant**	**Emily Graham**	**egraham@sml-law.com**	**416-583-2553**	**Y**
2) **Self-Represented Respondent**	**Mark Bentum**	**Juniorbentum73@yahoo.com** **info@allnaturalbeautyclinic.ca**	**647-928-6411**	**Y**
3)				

Date Heard: *(Rule 59.02(2)(c)(iii))* **April 24, 2025**

Nature of Hearing (mark with an "X"): *(Rule 59.02(2)(c)(iv))*

☒ Motion ☐ Appeal ☐ Case Conference ☐ Pre-Trial Conference ☐ Application

Format of Hearing (mark with an "X"): *(Rule 59.02(2)(c)(iv))*

☐ In Writing ☐ Telephone ☐ Videoconference ☒ In Person

If in person, indicate courthouse address:

330 University Avenue, Toronto

Relief Requested: *(Rule. 59.02(2)(c)(v))*

Contempt motion

Disposition made at hearing or conference (operative terms ordered): *(Rule 59.02(2)(c)(vi))*

1. The respondent, Mark Bentum, is held in contempt of court.
2. Sentencing hearing to follow, per my directions below.

Costs: On a indemnity basis, fixed at $ are payable by to [when]

Brief Reasons, if any: *(Rule 59.02(2)(b))*

NATURE OF THE MOTION

[1] This is a motion for an order finding the respondent Mark Bentum in contempt of court.

[2] On November 27, 2023, Callaghan J. issued a consent order restraining Mark Bentum from performing any controlled acts restricted to physicians and from using any title such as "doctor," "physician," "surgeon," or "plastic surgeon." Without limiting it, the main concern was performance of services and medical consultations regarding services involving procedures below the surface of the skin.

[3] The court order also required Mr. Bentum to remove and refrain from displaying such designations or representations of himself as a medical professional, on any website, social media account, or other forms of publication. This order came after the investigation by the College of Physicians and Surgeons of Ontario (CPSO) that Mr. Bentum was offering various cosmetic surgery services, falsely representing himself on social media wearing surgical scrubs in a public hospital, and describing his techniques. For example, he showed and touted his expertise in procedures such as blepharoplasty, i.e. eyelid surgery, as well as Botox and thread lifts.

[4] At the hearing, before consenting to the order, the motion judge had carefully made it clear that Mr. Bentum understood that he was being prohibited from acting as a medical professional in any capacity.

EVIDENCE FILED BY CPSO

[5] On April 30, 2024, on a tip-off from a health inspector from Toronto Public Health that Mr. Bentum could be breaching the order, the CPSO reopened its investigation of Mr. Bentum. The investigation consisted of several arms. One was to gather the internet content Mr. Bentum had posted about his experience performing various surgeries, as well as videos of himself walking through the halls of a public hospital wearing scrubs from St. Michael's Hospital. A second arm was to search CPSO and hospital data bases to confirm that Mr. Bentum was not medically qualified and was never employed at any of the Toronto-area hospitals he mentioned. They also obtained an affidavit from Dr. Mark Raphael, whose name appears on a diploma in Mr. Bentum's consultation office. The third arm was to deploy investigators posing as potential patients of Mr. Bentum for various medical procedures. In particular, I list the following events:

a. An investigator named Ashley Boyes attempted to obtain a Botox appointment with Mr. Bentum. He replied by text stating he stopped performing injectables in November 2023. “Sorry I can’t help you. I do RF Microneedling and Quality switch lasers and CO2 lasers.”

b. An investigator named Nazia Ibrahim obtained an appointment with Mr. Bentum for a consultation for fillers and Botox. When she attended, the office walls featured pictures of Mr. Bentum wearing scrubs and posing with people. During the appointment, Mr. Bentum told her he no longer performed injectables and that he had stopped the previous year.

c. An investigator named Chantelle Lafitte obtained an appointment with Mr. Bentum and requested a consultation for thread lifts. Mr. Bentum introduced himself as a doctor, called himself a “reconstructive surgeon,” and was wearing medical scrubs with the name of St. Michael’s Hospital on the chest. He attempted to persuade her of the safety of Botox and provided a quote for Botox, thread lifts, dermal fills, and a mole removal. He said he grouped all his Botox patients together, because he liked to use up the supply and did not like keeping it in the fridge. He told her about reconstructive breast surgery and pediatric plastic surgeries for children at “SickKids.” He received his training in the Caribbean and completed rotations in Boston at the Massachusetts General Hospital.

[6] The CPSO also filed the affidavit of one of its medical advisors, Dr. Anil Chopra. Dr. Chopra described all the procedures that Mr. Bentum professed to be able to perform, including thread lifts, Botox, eyelid surgery, and mole removal. Because all entail procedures below the surface of the skin, they are all controlled medical acts prohibited by the court order.

MR. BENTUM’S RESPONSE

[7] Mr. Bentum filed no evidence responding to the motion. Because of the serious nature of the motion and the fact that Mr. Bentum is not a lawyer, I permitted him to make representations and submissions responding to the motion.

[8] Mr. Bentum’s submissions consisted of two points.

[9] First, he stated that after the November 2023 court order, he stopped performing any of the surgeries. He called himself an entrepreneur. After the order, he pivoted his cosmetic treatments business to laser hair removal, acne treatment, chemical peels, and other surface treatments. He started a new referral business for the controlled acts. He would see the patients for consultation, quote them fees for the services, and look for licensed doctors and accredited facilities to accept the work. He would take a commission. Mr. Bentum conceded that he had not yet entered a commercial relationship with any of the licensed doctors or accredited facilities. He also did not know whether any of them would accept the quotes he was providing. He based the quotes based on online advertising.

[10] Second, he stated he has not posted any new content. He attempted to comply with the court order. Groupon, the firm he had hired to create and post the content, including videos of him apparently performing procedures as complicated as eyelid surgery, had vanished. He had none of the passwords needed to access the accounts to delete the content. At the time of the court order, he had discussed with the judge the likelihood that removal of the content could take time. When he agreed to the order, he was unaware of the fact that Groupon was no longer in business.

LAW OF CIVIL CONTEMPT

[11] The Superior Court's power to punish a person for contempt of court is a remnant of the common-law criminal power that survives the statutory codification of Canadian criminal law. The *Criminal Code*, R.S.C. 1985, c. C-46, s. 9, preserved that jurisdiction. There are two types of contempt of court, criminal and civil contempt. The criminal form entails sanctions for disruption of court proceedings. In contrast, civil contempt is a method of enforcing court orders in disputes: *B.C.G.E.U. v. British Columbia (Attorney General)*, 1988 CanLII 3 (SCC), [1988] 2 SCR 214, at para 33. Unlike criminal contempt, civil contempt entails court intervention to assist litigants' enforcement of court orders. It has been called "a private wrong": *R. v. Clement*, 1980 CanLII 2517 (MB CA), at paras. 42-43. In *Carey v. Laiken*, 2015 SCC 17, [2015] 2 SCR 79, at para. 31 and 36, the Supreme Court held that the primary purpose of civil contempt is "coercive rather than punitive" and that "it is an enforcement power of last rather than first resort."

[12] In this motion, the CPSO's interest is aligned with the public interest. It is the statutory body responsible for protecting the public from doctor misconduct and from persons impersonating doctors.

[13] Because of the criminal nature of a finding of contempt, the moving party must prove every element beyond a reasonable doubt. The most common description of the standard of proof is that it approximates absolute certainty: *R. v. Rathore*, 2025 ONCJ 291, at para. 3. The standard applicable in this contempt motion is the same as in a first-degree murder trial. Judges must be mindful of the guidance of appellate courts used to instruct juries to weigh the evidence and the meaning of a reasonable doubt. A helpful summary of the case law appears in *R v Edwards*, 2025 ABCJ 100, at paras. 6-7:

> [6] The main question in a criminal trial is always whether the Crown has proven each element of the offence beyond a reasonable doubt. *R v Lifchus,*1997 CanLII 319 (SCC), [1997] 2 SCR 32; *R v Starr,* 2000 SCC 40; and *R v Squires*, 2002 SCC 82 provide key principles as to this onus:
>
> 1. The standard of proof beyond a reasonable doubt is "inextricably intertwined" with the principal fundamental in all criminal trials, the presumption of innocence.
>
> 2. The burden of proof rests on the Crown throughout the trial and never shifts to the Accused.
>
> 3. A reasonable doubt
>
> a. is based upon reason and common sense, and is not a doubt based upon sympathy or prejudice;
>
> b. is logically connected to the evidence or absence of evidence;
>
> c. does not involve proof to an absolute certainty, is not proof beyond any doubt, nor is it an imaginary or frivolous doubt; and
>
> 4. More is required than proof that the accused is probably guilty.
>
> [7] As stated by the Court in *R v Torrie,* 1967 CanLII 285 (ONCA) at para. 10, the requirement that the Crown prove its case beyond a reasonable doubt does not "mean that the Crown must negative every possible conjecture, no matter how irrational or fanciful, which might be consistent with the innocence of the accused."

[14] At paras 32-35 of *Carey*, the Supreme Court set out the three elements of civil contempt the moving party must prove beyond a reasonable doubt. The first is that the order the alleged contemnor breached must be clear and unequivocal. The second is the alleged contemnor's actual knowledge of the order. The third is intentional disobedience. I will deal with each element in turn.

1. LANGUAGE OF THE ORDER

[15] The language of the order was very clear. It prohibited Mr. Bentum from holding himself out as a medical doctor and from performing any controlled acts, including medical consultations and performing any procedure below the skin.

[16] The uncontradicted evidence established that Mr. Bentum was still holding himself out as having medical credentials. He was also passing himself off as "Dr. Mark Raphael" on a diploma and other places, perhaps in hope that a patient would look up Dr. Raphael's credentials on the CPSO website.

[17] There was no evidence that Mr. Bentum was still performing any controlled surgical acts prohibited by the order. However, he did provide consultations. These consultations included discussions with the investigators posing as patients about complications and side effects. Mr. Bentum offered no real defence to this, apart from what amounted to be a fraudulent scheme to refer patients without having established a legitimate referral network. This motion is about contempt, however, and not about that referral network. While conducting the consultations for controlled acts, however, he violated the terms of the order prohibiting him from providing medical advice about the risks of the procedures.

[18] At the hearing before Callaghan J., the motions judge brokered an amendment to the terms regarding the removal of the internet content. Mr. Bentum ought to have first determined whether he could, in fact, instruct his web content creators to take down the videos and other content before agreeing to the order. Without evidence before me, I am unable to entertain Mr. Bentum's submission about the web content provider going out of business. It may be that this issue should better be addressed in the penalty, such as an order requiring Mr. Bentum to pay for the CPSO's expenses in gaining access to the internet service providers and social media accounts. However, as a legal determination, I have no choice but to find he has not removed the content from the internet and therefore is in breach of the order.

[19] Therefore, the terms of the order were clear and unequivocal. Mr. Bentum breached the order on many counts, and there was no serious issue that he misunderstood any of the terms.

2. KNOWLEDGE OF THE ORDER

[20] The record as contained in the transcript from the original hearing before Callaghan J. was clear in establishing that Mr. Bentum knew about the order and its contents.

3. INTENTIONAL DISOBEDIENCE

[21] In *Carey*, at para. 38, the Supreme Court stated that the moving party need not prove that the contemnor intended to disobey the order. To place the test at this level amounts to making ignorance of the law a defence to an allegation of civil contempt when the same would not be an answer to a murder charge. Instead, contumacy or lack thereof is relevant to the sentence or penalty. In short, there need be proof only that the alleged contemnor intended to commit the act or omission.

[22] The evidence from the CPSO investigators established that Mr. Bentum had continued to hold himself out to the public as a medical doctor, that he provided medical consultations about controlled acts, and that he had not removed the content from the internet. The first two counts were clearly intentional breaches of the order.

[23] The question remains whether the third count, an omission, was intentional. Had Mr. Bentum filed evidence about his efforts to track down the internet consultant, the court could have considered it to determine whether the failure to remove the content was intentional. In the absence of evidence, the proof that the content was still available to attract customers to Mr. Bentum's clinic established that he had not made efforts to remove it. Although the burden of proof never shifts to the accused, the continued presence of the content on the internet means his failure to remove it is a breach of the order. It is no different from a traffic violation in which the defence is that the driver made an effort to avoid the infraction. Where the violation is proven and there is no evidence of an effort to avoid it, there is sufficient evidence to prove beyond a reasonable doubt that the mental element of the breach was proven.

CONCLUSION

[24] I find that the CPSO has established, beyond a reasonable doubt, that Mark Bentum breached a clearly worded order to stop holding himself out as a doctor, to refrain from consulting with patients as a medical doctor, and to remove promotional content from the internet about his fake practice as a doctor. I find that he was aware of these breaches, and that the breaches were intentional. I therefore find him in contempt of court.

[25] The motion will now proceed to the second phase, sentencing. I will also deal with the issue of costs at that juncture. Counsel for the CPSO will arrange with the motions co-ordinator to book a one-hour in-person sentencing hearing before me during the summer sittings. Mr. Bentum is required to attend.

[26] As I advised Mr. Bentum at the conclusion of the hearing, I urge him to retain a lawyer and not to lose any time in that effort. A contempt motion, including sentencing, is no casual matter. It can result in Mr. Bentum's incarceration and liability for serious financial penalties.

Additional pages attached: ☐ Yes **X** No

Released: June 9 , 20 **25**

Date of Endorsement *(Rule 59.02(2)(c)(ii))*

Akazaki J.
2025.06.08
16:18:41 -04'00'

Signature of Judge/Associate Judge *(Rule 59.02(2)(c)(i))*