Judgment in summary proceedings

COURT OF FIRST INSTANCE OF ST. MAARTEN

Case number: SXM202601177
Judgment in summary proceedings dated: November 13, 2026

in the case of

Theophilus Emanuel THOMPSON,
residing in Sint Maarten,
plaintiff in the main action,
defendant in the counterclaim,
represented by: C.H.J. Merx, Esq.,

against

1. WORKERS INSTITUTE FOR ORGANIZED LABOR,
2. Joanice David **RICHARDSON**,
3. Elton Achille JONES,

with their places of business and residence, respectively, in Sint Maarten, jointly defendants in the main action, plaintiffs in the counterclaim, represented by: C.R. Rutte, Esq.

4. Lesley Asma **BERKEL**,
residing in Sint Maarten,
did not appear.

The parties will hereinafter be referred to as Thompson, Wifol, Richardson, Jones, and Berkel.

1. The Course of the Proceedings

1.1. Thompson filed a complaint on October 8, 2026. On October 29, Thompson submitted additional exhibits. Wifol, Richardson, and Jones also submitted exhibits and a statement of counterclaim on October 29, 2026. Subsequently, the oral hearing took place on October 30, 2026, at which the parties and their representatives appeared and presented their arguments. The court clerk took notes of the statements made during the oral hearing. The representatives used written pleadings, which they submitted to the Court.

1.2. The date of the judgment has been set for today.

2. The Facts

2.1. Wifol is an association based in Sint Maarten, established on 21

November 2013. Since Wifol's incorporation—and as early as 1983 with its legal predecessor—Thompson has served as a director and chairperson of the association.

2.2. On May 7, 2026, ten members submitted a written request to the board to convene a special general meeting of members.

2.3. In a notice dated August 21, 2026, the requesting members, citing Article 10, paragraph 6, of the Articles of Incorporation, themselves convened an extraordinary general meeting of members to be held on September 17, 2026. They based this notice on the fact that the board had not acted on their request of May 7, 2026, within the two-week period prescribed by the Articles of Incorporation.

2.4. The agenda, as included in the notice of August 21, 2026, contained the following agenda items:

1. Opening and welcome;
2. Adoption of the agenda;
3. Board report;
4. Financial documents;
5. Report of the Audit Committee;
6. Filling any vacancies on the board;
7. Appointment of a new audit committee;
8. Any other business;
9. Adjournment.

2.5. The special general meeting of members took place on September 17, 2026. During the meeting, Thompson's resignation as chair was discussed. Subsequently, a new board was elected, consisting of Richardson as chair, Jones, and Berkel.

2.6. Thompson does not recognize the legal validity of the meeting and objected to its convening and holding.

2.7. In letters dated September 24, 2026, the new board demanded that Thompson transfer all keys, access credentials, files, administrative records, and funds belonging to Wifol to the new board no later than September 25, 2026. In addition, the new board announced that Wifol's payments to the Wifol Foundation would be suspended with immediate effect. In that regard, the board also demanded that the Foundation account for and repay the funds in question.

2.8. In a letter dated September 29, 2026, Thompson's attorney, acting on his behalf, expressly contested the legal validity of the decisions made on September 17, 2026.

3. The Dispute

3.1. Thompson requests, by judgment, to the extent permitted by law, that it be enforceable provisionally:

I. As a preliminary injunction, to rule that the resolutions of the Wifol general meeting of members of September 17, 2026—including Thompson's removal as chairman and the election of Richardson, Jones, and Berkel as board members—are null and void, or at least that they are presumed to be null and void for the time being, pending proceedings on the merits;

II. To suspend the effect of the demands issued by Wifol et al. on September 24, 2026, or at least to render them inoperative, to the extent that they seek (i) the surrender by Thompson of Wifol's keys, means of access, files, records, equipment, and funds, and (ii) the cessation of payments to the Wifol Foundation and the related claims for accountability and reimbursement, until a final and irrevocable decision has been rendered in the proceedings on the merits regarding the legal validity of the resolutions of September 17, 2026;

III. To prohibit Richardson, Jones, and Berkel, pending the proceedings on the merits, from presenting themselves or acting toward third parties, members, the Chamber of Commerce, banks, or others as the authorized board of Wifol, or from otherwise acting on behalf of Wifol or performing legal acts;

IV. To make a provision regarding the representation of Wifol pending the proceedings on the merits, including the appointment of an independent (interim) director to be designated by the Court or another appropriate arrangement, such that Wifol does not become without a board of directors and can fulfill its ongoing obligations, in a manner to be determined by the Court in the interests of justice;

V. To order Wifol et al., jointly and severally—such that payment by one shall release the other—to pay a penalty in an amount to be determined by the Court in accordance with the principles of equity for each day or part thereof that they act in violation of the judgment to be rendered under (b), (c), and/or (d), subject to a maximum amount to be determined by the Court;

VI. Order Wifol et al. to pay the costs of these proceedings, plus subsequent costs and statutory interest from fourteen days after the date of the judgment to be rendered.

3.2. Thompson bases his claim on the fact that the choice of the

new board, including Richardson et al., did not take place in accordance with the procedure prescribed in the articles of incorporation. Instead of a written vote by ballot, the members present were apparently asked to indicate their approval of the appointment of Richardson et al. by acclamation or applause. According to Thompson, such a method of decision-making does not meet the statutory requirements for a valid board election. Furthermore, Thompson argues that the quorum prescribed in the articles of incorporation was not present at the meeting in question to enable the adoption of valid resolutions. Nor can the meeting be regarded as a validly convened second or repeat meeting for which, if the articles of incorporation so provide, a different quorum requirement might apply. After all, the conditions for convening and holding such a second or repeat meeting have not been met.

3.3. Wifol requests, in its counterclaim, that a judgment be rendered in summary proceedings, to the extent possible enforceable provisionally:

I. That Thompson be ordered to immediately surrender to (the board of) Wifol:
a) all keys, access credentials, alarm codes, and passwords for the Wifol building, outbuildings, offices, safes, and vehicles;
b) all financial, membership registration, corporate, and tenant files, stamps, seals, computers, laptops, hard drives, and other equipment, including the login credentials for all of the association's accounts;
c) all funds, including rent collected on behalf of the association and all other Wifol funds that he has or has had in his possession and has not yet remitted to the association; and
d) all documents, files, and other property of Wifol that were removed from the Wifol building by him or by Ms. Lisa Alexander on or about September 17, 2026;
all of the foregoing subject to a penalty of USD 5,000 per day or portion of a day that Thompson remains in default, effective immediately upon service of the judgment, or at least an amount and/or period to be determined by the Court in the interests of justice;

II. Thompson is ordered to immediately grant full access and cooperation to Wifol's new board of directors regarding the bank accounts, financial records, and digital accounts held in Wifol's name and, to the extent Thompson has actual access to or control over them, regarding the data and documents pertaining to Wifol—funds or Wifol transactions held by the Wifol Foundation and the CIFSEF Foundation, subject to a penalty of USD 5,000 per day (or part thereof) that Thompson remains in default, effective immediately upon service of the judgment, or at least an amount and/or period to be determined by the Court in the interests of justice;

III. Thompson is prohibited from presenting himself as a representative, director, or chairman of Wifol to third parties, members, the Chamber of Commerce, banks, the Wifol Foundation, the CIFSEF Foundation, or others, or to act on behalf of Wifol or perform any legal acts, subject to a penalty of USD 5,000 per violation, effective immediately upon service of the judgment, or at least an amount and/or period to be determined by the Court in the interests of justice;

IV. Thompson is ordered to pay the costs of the counterclaim, plus subsequent costs and statutory interest on the litigation costs from fourteen days after the date of the judgment.

3.4. The parties' arguments are discussed in more detail below, to the extent relevant.

4. The Assessment

Urgent Interest

4.1. Given the nature of the claims, there is an urgent need for the decisions to be rendered, both in the main action and in the counterclaim.

Assessment of the Claim

4.2. During the oral hearing, Thompson withdrew the three substantive objections to the legality of the general meeting of members held on September 17, 2026. In doing so, Thompson referred to the grounds for the defendants' defense. It follows from this, among other things, that an agenda was shared prior to the meeting, that a certain number of members were present, and that a vote on the change in the board was conducted using voting slips. Thompson also pointed to Article 7(5) of Wifol's articles of incorporation, from which he argues that new members must be accepted by the board. However, Thompson did not raise this point as a claim, so the Court cannot take it into account in its assessment of the claims.

4.3. The foregoing means that the Court will dismiss the claims in the main action. Thompson, as the unsuccessful party, will be ordered to pay the costs of the proceedings. These costs, on the part of Wifol, Richardson, and Jones, are currently estimated at Cg. 1,500 (1 point × Cg. 1,500). The costs on the part of the defendant who failed to appear are estimated at zero.

Assessment of the Counterclaim

4.4. Wifol, Richardson, and Jones argue in their counterclaim that Thompson, in short

in short, must surrender all of Wifol's property to them. They substantiate this claim as follows. Thompson served as a director of Wifol for decades. In that capacity, he was—certainly in recent years—the only person with access to (the access codes for) the records and bank accounts, the keys, and Wifol's other property. With the exception of a few binders, Wifol's new board found nothing at the office location. Thompson can therefore be ordered to surrender the aforementioned property to the plaintiffs.

4.5. Thompson raises the following defense. He does not (any longer) have any of Wifol's property in his possession. All property he had in his possession was left behind at Wifol's premises. Furthermore, a number of Wifol's claims are not admissible because they are insufficiently specified.

Court's Ruling

4.6. The Court will grant most of Wifol's claims. This ruling is based on the following.

4.7. Thompson has been the chairman of Wifol at least since the 2013 amendment to the articles of incorporation. In that capacity, Thompson had access to, among other things, Wifol's premises, records, and bank account(s). Thompson does not dispute this. This means it is plausible that, on the day of the General Meeting of Members, Thompson still had possession of the aforementioned Wifol property.

4.8. Subsequently, after the General Meeting, the plaintiffs sent a letter to Thompson demanding the return of Wifol's property. Thompson responded by letter dated September 29, 2026, which included the following:

"To the extent that Mr. Thompson is required to surrender keys, means of access, files, or funds belonging to W.I.F.O.L., he is willing to enter into consultations regarding temporary joint management or transfer under protest [...]"

4.9. In light of this offer from Thompson, it is plausible for the time being that he still has Wifol's goods in his possession. Indeed, there is no evidence that Thompson delivered any goods to the plaintiffs after this offer and before the oral hearing on October 30, 2026. Nor did any such evidence emerge during the oral hearing. On the contrary, Thompson argued that passwords granting access to, among other things, Wifol's records and bank accounts belong to him personally. It therefore appears that Thompson does indeed have these passwords but is—wrongfully—refusing to provide them to the plaintiffs. Furthermore, it is significant that Thompson acknowledged for the first time during the oral hearing that he still has certain keys to Wifol's premises in his possession. All of this renders Thompson's defense—that he has not taken any goods from Wifol

is not credible.

4.10. The foregoing leads the Court to find sufficient grounds to grant Wifol's claims as set forth in the operative part of the judgment. If access to the records or financial data is not possible without the cooperation of third parties (such as a bank), it is up to Thompson to ensure that the relevant third parties cooperate. To the extent that Thompson has argued that the parties need an inventory list to determine which items are missing, this is at his own expense and risk. After all, he has served as chairman of Wifol for the past thirteen years, so he can be expected to have such documents—whether originals or copies—at his disposal. This principle also applies to the copies Thompson is requesting in connection with his own (future) defense in (civil) cases.

4.11. The Court will grant Thompson a period of seven days to comply with the judgment. The prohibition against acting as a director of Wifol takes effect immediately.

4.12. The Court will impose a penalty of Cg. 2,500 per day, up to a maximum of Cg. 50,000, in the event that Thompson refuses to cooperate.

4.13. The Court will dismiss the claims regarding the release of funds, as set forth in the relief sought under I, subparagraph c, and regarding the disclosure of information about transactions between Wifol and other foundations. The plaintiffs have not sufficiently specified these claims, so that granting them in summary proceedings is not possible.

4.14. Finally, it is important to note that the Court does not grant the claims of Richardson and Jones separately. They are directors of Wifol and have no personal interest in the claims brought.

Litigation Costs

Thompson, as the unsuccessful party, will be ordered to pay the litigation costs. These costs on the plaintiffs' side are estimated to date at Cg. 1,500 (2 points × Cg. 1,500 × 0.5 due to the counterclaim).

Judgment Enforceable Pro Tempore

4.15. The Court will declare this judgment in the main action and in the counterclaim enforceable provisionally. This means that the judgment may be enforced immediately, even if one of the parties appeals to the Court of Appeals to have the case reheard

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5. The Decision

The Court, ruling in summary proceedings:

on the main claim:

5.1. dismisses the claims,

5.2. orders Thompson to pay the costs of the proceedings, on the part of Wifol, Richardson, and Jones, estimated to date at Cg 1,500,

On the counterclaim:

5.3. orders Thompson to surrender to Wifol, within seven days of the date of this judgment:
- all keys, access devices, alarm codes, and passwords for the Wifol building, its outbuildings, offices, safes, and vehicles,
- all financial, membership registration, corporate, and tenant files, stamps, seals, computers, laptops, hard drives, and other equipment, including the login credentials for all of the association's accounts,
- all documents, files, and other property of Wifol that were removed from the Wifol building by him or by Ms. Lisa Alexander on or around September 17, 2026,

5.4. orders Thompson to grant the new Wifol board full access to and cooperation regarding the bank accounts, financial records, and digital accounts held in Wifol's name within seven days of the date of this judgment,

5.5. prohibits Thompson from presenting himself as a representative, director, or chairman of Wifol to third parties, members, the Chamber of Commerce, banks, the Wifol Foundation, the CIFSEF Foundation, or others, or from acting on behalf of Wifol or performing legal acts,

5.6. orders that Thompson shall forfeit a penalty of Cg. 2,500 per day to Wifol, up to a maximum of Cg. 50,000, if he fails to comply with the orders set forth in 5.3, 5.4, and 5.5,

5.7. orders Thompson to pay the costs of the proceedings, estimated to date at Cg 1,500 on Wifol's side,

5.8. dismisses the remaining or other claims,

In the main action and in the counterclaim

5.9. declares this judgment enforceable immediately;

This judgment was rendered by G. Konings, Esq., judge, assisted by the court clerk, and pronounced in open court on November 13, 2026.

