



SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-21-00672899-00CL

DATE: September 25th, 2023

NO. ON LIST: 1 – 10:00

TITLE OF PROCEEDING: RIVER CITY CHRISTIAN REFORMED CHURCH v. SINGH ET AL
BEFORE: JUSTICE PENNY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
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For Defendant, Respondent, Responding Party:

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For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
T. Vanderlaan	Court Officer	Tvanderlaan@deloitte.ca

ENDORSEMENT OF JUSTICE PENNY:

[1] This matter was initiated in Kitchener Ontario (Central South Region). Kitchener is where the plaintiff is situated and where it alleges the events took place and where damages were suffered. Kitchener is also where the property in issue was located.

[2] Because of the disputed receivership applications, the court in Kitchener requested the assistance of the Toronto Commercial List. The transfer to the Commercial List was approved by Justice McEwen. The only secured creditor, Coldpoint, made a receivership application, which was ultimately granted.

[3] As a result of the receivership order made, the plaintiffs' action was stayed.

[4] The principal asset in issue (real property in Kitchener) has been sold by the Receiver. It is common ground that the only remaining issues affecting the Receiver have to do with rent and rent related obligations, which must be determined in the main action. The circumstances are such that there is likely to be no recoveries (including from the remaining issues which will have to be decided in the main action) from the receivership that will benefit anyone other than Coldpoint.

[5] Now that most of the "receivership" issues *per se* have been determined, the Receiver seeks a distribution order and approval of its fees and expenses.

[6] Likewise, because all the "stand-alone" receivership issues have been resolved, the plaintiffs seek an order lifting the stay and an order returning the matter to be tried in Kitchener, where it began.

[7] There is no opposition to either motion or to the requested orders.

[8] Regarding the Receiver's motion, I am satisfied that the proposed distribution is appropriate at this juncture. I am also satisfied, in the absence of any contrary position put before the Court, with the Receiver's accounts for fees and disbursements and those of its counsel. Distribution order to issue in the form signed by me this day.

[9] Regarding the plaintiffs' motion, I am satisfied that the stay should be lifted for the purpose of prosecuting the main action. The need for the stay has been superceded. It is common ground that any remaining issues affecting the receivership aspect of this case must be determined in the main action.

[10] The Kitchener court has *prima facie* jurisdiction. This is where the plaintiffs are, where the relevant events took place and where the alleged damages were suffered. It is where the property in issue was located prior to its sale. It is where the action began and where the plaintiffs want it to be prosecuted and tried. The only reason the matter was traversed to the Commercial List in Toronto was due to the receivership issues.

[11] Section 12 of the Commercial List Practice Direction provides that only Toronto matters can be listed on Commercial List unless, for "special reasons", authorization is given by the Commercial List Team Lead. This is an exception to Rule 13.01.02(2). The authorization of Justice McEwen was granted because of the receivership issues. Now that the receivership issues are largely concluded, it is time to proceed, and necessary to proceed, with the main action. The "special reasons" no longer obtain. As Co-Team Lead of the Commercial List, therefore, I direct that this matter be returned to Kitchener for the prosecution of the action and the trial.

[12] The order lifting the stay to proceed with the action, and returning this action to Kitchener, shall issue in the form signed by me this day.

A handwritten signature in blue ink, appearing to read "Penny J.", followed by a period.

Penny J.