



SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-23-699663-00CL

DATE: August 22, 2024

NO. ON LIST: 4

TITLE OF PROCEEDING: THE TORONTO-DOMINION BANK v. INJECTION TECHNOLOGIES INC. et al.

BEFORE: JUSTICE W.D. BLACK

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Matilda Lici	Counsel for the Applicant	mlici@airdberlis.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Robert Danter	Counsel for the Receiver - Deloitte	rdanter@harrisonpensa.com

ENDORSEMENT OF JUSTICE BLACK:

- [1] This motion was originally scheduled to deal, in large part, with a dispute as to the priority, as between the plaintiff (TD) and The 2013 Gary Paul Cluthe Family Trust ("Cluthe"), in respect of sale proceeds held by the Receiver resulting from the sale of certain property of the respondent Moldco Plastics Inc.

- [2] In addition, the Receiver was seeking approval of its Third Report dated July 8, 2024, and its activities as set out in that report.
- [3] With respect to the priority dispute the Receiver – to its credit and in keeping with the highest and best conduct expected of the role – had provided a factum setting out a thorough and even-handed analysis of the competing positions as to priority over the funds at issue.
- [4] Based on that analysis, and the forceful factum filed on behalf of TD, I was strongly leaning in favour of TD's position, subject to hearing argument from Cluthe.
- [5] At the time of the hearing, however, counsel for the Receiver advised that Cluthe had now withdrawn its claim to priority in the proceeds in question, such that TD's claim to priority was now unopposed.
- [6] In the circumstances, I grant the order sought by the Receiver, found at tab E106 of Caselines. That order, in addition to confirming TD's priority and the distribution following from that priority, also approves the Receiver's Third Report and its activities described therein. I have no hesitation in granting that approval; as set out above, the Receiver's performance and conduct has been exemplary.



W.D. BLACK J.