

Court File Number: CV-11-9399-00CL

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

PEOPLES TRUST Plaintiff(s)
AND
ROSE OF SHARON Defendant(s)

Case Management Yes No by Judge: _____

Counsel	Telephone No:	Facsimile No:

- Order Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)
- Adjourned to: _____
- Time Table approved (as follows):

Counsel appeared before me last Friday, with counsel for 2383431 Ontario seeking an order to CX the Revenue as its Six A Report dated May 16/14 filed in response to the motion by 238 to set aside prior orders of this Court dealing with the costs payable to Representative Counsel (who has been discharged). I told counsel for 238 at that time that I did not have the motion record for 238 to set aside. I told counsel for 238 to ensure that the set aside motion record be filed or placed before by the end of the day as

2014/11/14
Date

[Signature]
Judge's Signature
D. M. BREWSTER

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Judges Endorsment Continued

Friday I checked with the CLO at 4:45, on Friday, 238 had not filed or found its material needed. This morning counsel for 238 did not have the material needed

It is ultimately the responsibility of counsel to ensure the necessary materials are before the court. Last Friday I told counsel for 238 about the deficiency of the court file; counsel did not see that deficiency.

As a result, no motion to set aside is before me today.

On July 14th the OCA dismissed the appeal of 238 from the order of Watsler J. made Dec 13/13. The OCA ordered 238 to pay Peoples costs of the appeal of \$7,000. 238 has not done so.

At an earlier 9:30 I expressed concern about a judicial mortgagee increasing the litigation costs of a receivership whose recovery was borderline. I ~~missed~~^{missed} about security for costs, but made an order.

However, under the circumstances, given 238's failure to pay the costs ordered by the OCA, its failure to ensure that proper materials were before the court, and its decision to proceed with a motion notwithstanding that the OCA

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Judges Endorsment Continued

expressly adopted the reasoning of Member 9 in her
Dec 13/13 Reasons which appears to apply with equal
force to 238's motion to vary. I order that 238 may
not take any further steps in this motion until it pays
the costs ordered by the OCA. Once it does, it may
attend before another judge to receive a new hearing date.

This attendance took less than 30 minutes. I fix
the costs thrown away for the attendance at \$500 each
for (1) Peoples (2) the Reviewer and (3) counsel for the
former Rep-Counsel, but I leave the ordering of any
responsibility by 238 for these costs to the judge who
eventually hears the motion & set aside.