

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

WINDSOR CAPITAL LIMITED PARTNERSHIP and
WINDSOR II LIMITED PARTNERSHIP

Applicants

- and -

2352107 ONTARIO INC.

Respondent

**IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c.B-3, AS AMENDED, SECTION
101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 c. c.43, AS AMENDED**

**FACTUM OF THE RECEIVER
(Motion returnable October 8, 2026)**

October 6, 2026

CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, ON
M2N 7E9

Harvey Chaiton (LSO # 21592F)
Tel: 416-218-1129
Email: harvey@chaitons.com

Lawyers for the Receiver

TO: SERVICE LIST

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

**WINDSOR CAPITAL LIMITED PARTNERSHIP and
WINDSOR II LIMITED PARTNERSHIP**

Applicants

- and -

2352107 ONTARIO INC.

Respondent

**IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c.B-3, AS AMENDED,
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 c. c.43, AS
AMENDED**

**FACTUM OF ALBERT GELMAN INC., IN ITS CAPACITY AS RECEIVER OF
THE REAL PROPERTY MUNICIPALLY KNOWN AS 175 MELVIN ROBSON
AVENUE, AURORA, ONTARIO AND ALL THE ASSETS, UNDERTAKINGS
AND PROPERTIES OF 2352107 ONTARIO INC.**

I. OVERVIEW AND NATURE OF MOTION

1. Albert Gelman Inc., in its capacity as receiver (in such capacity, the “**Receiver**”) of the real property municipally known as 175 Melvin Robson Avenue, Aurora, Ontario and all the assets, undertakings and properties of 2352107 Ontario Inc., brings this motion seeking orders discharging certain construction liens, releasing and returning security posted to vacate those liens and where applicable, the dismissal of the lien actions without costs. All but two liens have been resolved.

The lien claimants of the two remaining liens do not oppose the orders sought on this motion.

II. FACTS

2. On January 23, 2026, the Ontario Superior Court of Justice (“Commercial List”) issued a receivership order appointing Albert Gelman Inc. (the “**Receiver**”) as the receiver manager (“**Receivership Order**”), without security, of all the assets, undertakings and properties of the respondent, 2352107 (“**235**”).¹
3. 235’s principal asset is the real property located at 175 Melvin Robson Avenue, Aurora, Ontario (the “**Property**”), and retail plaza and commercial condominium units on the Property (the “**Project**”).²
4. The condominium declaration was registered against the Property on November 27, 2025 (the “**Declaration**”). Prior to November 27, 2025, the Property consisted of the following Property Identifier Numbers (“**PINS**”): 03620-1755 LT, 03620-1761 LT, 03620-1762 LT, 03620-1763 LT, 03620-1764 LT, 03620-1765 LT, 03620-1777 LT, 03620-1779 LT, and 03620-1780 LT.³

¹ Exhibit A to the Affidavit of Jordan Kupinsky sworn October 5, 2026 (“**Kupinsky Aff.**”)

² Para. 3 of Kupinsky Aff.

³ Para. 4 of Kupinsky Aff.

5. After the registration of the Declaration, the Property was converted into 24 PINS starting at PIN 30132-001 to 30132-0024.⁴

Construction Liens

6. Prior to the receivership, 235 entered into contracts directly with several trades to construct the Project. A total of 18 construction liens were registered against some portion of title to the Project. 16 of the liens have been resolved.⁵
7. Steelcon Fabrication Inc. (“**Steelcon**”) registered a lien on December 12, 2024, as Instrument YR3751535. Steelcon commenced an action and registered a certificate of action to perfect its lien. The lien and certificate were vacated from title on April 11, 2025, pursuant to the order of Justice Cameron dated March 31, 2025, and the posting of security by way of lien bond with the Accountant of the Superior Court of Justice (the “**Accountant**”) in Account No. 580753. This lien has been resolved and Steelcon consents to an order discharging the lien, returning the security for cancelation and dismissing the lien action without costs.⁶
8. Stag General Contracting (“**Stag**”) registered a lien on March 7, 2025, as Instrument No. YR3774237. The lien was vacated by the order of Justice Christie dated April 8, 2025, and the posting of security by way of lien bond to the

⁴ Para. 5 of Kupinsky Aff.

⁵ Para. 7 and Exhibit “D” of Kupinsky Aff.

⁶ Para. 8 of Kupinsky Aff.

Accountant in Account No. 580797. No action was commenced to prosecute the lien. The lien is resolved and Stag consents to an order discharging the lien and returning the security for cancellation.⁷

9. Forest Contractors Inc. registered a lien on April 1, 2025, as Instrument No. YR3781775. Th lien has been resolved and was discharged from title on April 14, 2025.⁸

10. 1765382 Ontario Inc. (“**1765**”) registered a lien on April 17, 2025, as Instrument No. YR3786606. 1765 commenced a claim and registered a certificate of action on May 22, 2025. The lien was vacated from title to the Project pursuant to the order of Justice Sutherland dated July 31, 2025, and the posting of security by way of lien bond with the Accountant in Account No. 582238. The lien is resolved and 1765 consents to an order discharging the lien, returning the security for cancellation and dismissing the action without costs.⁹

11. Zendoors Inc. registered a lien on May 5, 2025, as Instrument No. YR3791839. Zendoors Inc. commenced an action and registered a certificate of action to perfect the lien. The lien has been resolved, and an order has been made discharging the lien and dismissing the action without costs.¹⁰

⁷ Para. 9 of Kupinsky Aff.

⁸ Para. 10 of Kupinsky Aff.

⁹ Para. 11 of Kupinsky Aff.

¹⁰ Para. 12 of Kupinsky Aff.

12. Skyrise Prefab Building Solutions Inc. (“**Skyrise**”) registered a lien on May 21, 2025, as Instrument No. YR3796394. Skyrise commenced an action and registered a certificate of action to perfect its lien. The lien is resolved, and an order has been made discharging the lien and dismissing the action without costs.¹¹
13. Ellis Glass & Mirror Ltd. (“**Ellis**”) registered a lien on June 13, 2025, as Instrument No. YR3805106. The lien was vacated pursuant to the order of Justice Sutherland dated July 31, 2025, and by posting security by way of lien bond with the Accountant in Account No. 582237. Ellis commenced an action in the Ontario Superior Court of Justice bearing Court File No. CV-00003329-0000. The lien is resolved and Ellis consents to an order discharging the lien, returning the security for cancellation and dismissing the action without costs.¹²
14. Clearstream Landscaping Inc. (“**Clearstream**”) registered four separate liens on July 24, 2025, as Instrument Nos. YR3819489, YR3819490, YR3819491, and YR3819492. The liens were vacated pursuant to the orders of Justice Cameron each dated August 21, 2025, and the posting of security with the Accountant in Account Nos. 582205, 582507, 582508, and 582509. The liens were subsequently resolved and discharged pursuant to the order of Justice Vallee dated November 14, 2025. Through inadvertence, the order submitted to the

¹¹ Para. 13 of Kupinsky Aff.

¹² Para. 14 of Kupinsky Aff.

court to discharge the liens did not contain a provision for the return of security. Clearstream consents to the release of the security.¹³

15. D. Crupi & Sons Limited (“**Crupi**”) registered a lien on August 22, 2025, as Instrument No. YR3830505. It commenced an action and registered a certificate of action to perfect its lien. The lien is resolved, and an order has been made discharging the lien and dismissing the action without costs.¹⁴

16. Campoli Electric Ltd. (“**Campoli**”) registered a lien on August 27, 2025, as Instrument No. YR3832256. It commenced an action and registered a certificate of action to perfect its lien. The lien is resolved, and an order has been made discharging the lien and dismissing the action without costs.¹⁵

17. T. Hamilton & Son Inc. (“**T. Hamilton**”) registered liens as Instrument Nos. YR3863752 and YR3863753. These liens were discharged by the registration of applications to delete construction liens on November 24, 2025, as Instrument Nos. YR3866785 and YR3866786.¹⁶

18. Currently, the following liens are registered against the Project¹⁷:

¹³ Para. 15 of Kupinsky Aff.

¹⁴ Para. 16 of Kupinsky Aff.

¹⁵ Para. 17 of Kupinsky Aff.

¹⁶ Para. 18 of Kupinsky Aff.

¹⁷ Para. 19 of Kupinsky Aff.

Lien Claimant	Lien Reg. No	Cert. Reg.
Elements Air Sytems Inc. (“Elements”)	YR3875716	YR3880997
McQueen Maintenance Inc. (“McQueen”)	YR3876733	YR3890716
Paul Marques Architect Inc. (the “Architect”)	YR3890042	N/A

19. The lien of Elements has been resolved. Elements consents to an order discharging the lien and dismissing the action without costs.¹⁸

20. The liens of McQueen and the Architect have not been resolved. These lien claimants do not oppose the relief sought in this motion.¹⁹

¹⁸ Para. 20 of Kupinsky Aff.

¹⁹ Exhibits “BB” and “CC” of Kupinsky Aff.

III. ANALYSIS

21. The court may, on a motion, order discharging a lien and dismissing an action on any proper ground. An order under subsection 47(1) or (1.1) of the ***Construction Act, R.S.O. 1990, c. C.30 as amended*** may include any terms or conditions that the court considers appropriate in the circumstances.²⁰

22. All construction liens have been resolved except for McQueen's and the Architect's liens. Neither of these lien claimants opposes the relief being sought in the notice of motion. Under the circumstances, it is appropriate that the resolved liens be discharged, the security posted to vacate them be returned for cancellation (where applicable), and any related actions (where applicable) be dismissed.

IV. ORDERS SOUGHT

23. The Receiver seeks the following orders:

Lien Claim of Stag General Contracting Inc.

- a. an order discharging the construction lien of Stag registered in the Land Registry Office for the Land Titles Division (No. 65), as Instrument no. YR3774237 on March 7, 2025;
- b. an order that the Accountant of the Superior Court of Justice release and deliver up for cancellation Lien Bond No. 251070010 in the amount of

²⁰ Section 47 of ***Construction Act, R.S.O. 1990, c. C.30 as amended***

\$645,455.25 deposited in Account No. 580797 pursuant to the Order of the Honourable Justice V. Christie dated April 8, 2025;

Lien Claim of Steelcon Fabrication Inc.

- c. an order discharging the construction lien of Steelcon registered in the Land Registry Office for the Land Titles Division (No. 65), as Instrument no. YR3751535 on December 20, 2024;
- d. an order that the Accountant of the Superior Court of Justice shall release and deliver up for cancellation Lien Bond No. 241070040 in the amount of \$541,900.55 deposited in Account No. 580753 pursuant to the Order of the Honourable J. Cameron dated March 31, 2025;
- e. an order dismissing Steelcon's action in the Ontario Superior Court of Justice bearing Court File No. CV-25-00000914-0000 without costs;

Lien of 1765382 Ontario Inc. o/a Palmyra Metal Fabrication

- f. an order discharging the construction lien of Palmyra, registered in the Land Registry Office for the Land Titles Division (No. 65), as Instrument no. YR3786606 on April 17, 2025;
- g. an order that the Accountant of the Superior Court of Justice release and deliver up for cancellation Lien Bond No. 251070017 in the amount of

\$781,784.13 deposited in Account No. 582238 pursuant to the Order of the Honourable Justice Sutherland dated July 28, 2025;

- h. an order dismissing Palmyra's action in the Ontario Superior Court of Justice bearing Court File No. CV-25-00001862-0000 without costs;

Lien of Ellis Glass & Mirror Ltd.

- i. an order that the construction lien of Ellis Glass registered in the Land Registry Office for the Land Titles Division (No. 65), as Instrument no. YR3805106 on June 13, 2025, be discharged;
- j. an order that the Accountant of the Superior Court of Justice shall release and deliver up for cancellation to Vito S. Scalisi, lawyer for the Defendant, 2352107 Ontario Inc., Lien Bond No. 251070018 in the amount of \$529,905.00 deposited in Account No. 582237 pursuant to the Order of the Honourable Justice Sutherland dated July 31, 2025;
- k. an order dismissing Ellis Glass' action in the Ontario Superior Court of Justice bearing Court File No. CV-00003329-0000 without costs.

Liens of Clearstream Landscaping Inc.

- l. an order that the Accountant of the Superior Court of Justice shall release and deliver up for cancellation Lien Bond No. 251070022 in the amount of

\$190,687.50 deposited in Account No. 582505 pursuant to the Order of the Honourable Justice Cameron dated August 21, 2025;

m. an order that the Accountant of the Superior Court of Justice shall release and deliver up for cancellation Lien Bond No. 251070020 in the amount of \$1,199,085.38 deposited in Account No. 582507 pursuant to the Order of the Honourable Justice Cameron dated August 21, 2025;

n. an order that the Accountant of the Superior Court of Justice shall release and deliver up for cancellation Lien Bond No. 251070021 in the amount of \$469,656.25 deposited in Account No. 582508 pursuant to the Order of the Honourable Justice Cameron dated August 21, 2025;

o. an order that the Accountant of the Superior Court of Justice release and deliver up for cancellation Lien Bond No. 251070023 in the amount of \$95,646.73 deposited in Account No. 582509 pursuant to the Order of the Honourable Justice Cameron dated August 21, 2025;

Lien of Elements Air Systems Inc.

p. an order discharging the construction lien of Elements registered in the Land Registry Office for the Land Titles Division (No. 65), as Instrument No. YR3875716 on December 11, 2025;

- q. an order vacating the certificate of Action registered in the Land Registry Office for the Land Titles Division (No. 65), as Instrument No. YR3880997 on December 29, 2025; and
- r. an order dismissing the action without costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED, THIS 6th DAY OF OCTOBER, 2026.



CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, ON
M2N 7E9

Harvey Chaiton (LSO # 21592F)
Tel: 416-218-1129
Email: harvey@chaitons.com

Lawyers for the Receiver

Schedule "A"

Statutes and Regulations

Construction Act

R.S.O. 1990, CHAPTER C.30

General powers of the court

Power to discharge

47 (1) The court may, on motion, order the discharge of a lien,

(a) on the basis that the claim for the lien is frivolous, vexatious or an abuse of process;
or

(b) on any other proper ground. 2017, c. 24, s. 37 (1).

Power to vacate, etc.

(1.1) The court may, on motion, make any of the following orders, on any proper ground:

1. An order that the registration of a claim for lien, a certificate of action or both be vacated.

2. If written notice of a lien has been given, a declaration that the lien has expired or that the written notice of the lien shall no longer bind the person to whom it was given.

3. An order dismissing an action. 2017, c. 24, s. 37 (1); 2018, c. 17, Sched. 8, s. 15 (1).

Conditions

(1.2) An order under subsection (1) or (1.1) may include any terms or conditions that the court considers appropriate in the circumstances. 2017, c. 24, s. 37 (1).

Direction by court

(2) Where a certificate of action is vacated under paragraph 1 of subsection (1.1), and there remain liens which may be enforced in the action to which that certificate relates, the court shall give any directions that are necessary in the circumstances in respect of the continuation of that action subject to paragraph 4 of subsection 44 (9). R.S.O. 1990, c. C.30, s. 47 (2); 2010, c. 16, Sched. 2, s. 2 (13); 2017, c. 24, s. 37 (2); 2018, c. 17, Sched. 8, s. 15 (2).

LAWYER'S CERTIFICATION

I certify that I am satisfied as to the authenticity of every authority referenced herein.

Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal, or by a commercial publisher of research on the subject of the report, is presumed to be authentic, absent evidence to the contrary (Rule 4.06.1(2.2)).

DATE: October 6, 2026



HARVEY CHAITON

WINDSOR CAPITAL LIMITED PARTNERSHIP et. al..

-and-

2352107 ONTARIO INC.

Applicants

Respondent

Court File No. CL-26-00000005-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

IN THE MATTER OF AN APPLICATION
UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT,
R.S.C. 1985, c.B-3, AS AMENDED,
SECTION 101 OF THE *COURTS OF
JUSTICE ACT*, R.S.O. 1990 c. c.43, AS
AMENDED

Proceeding commenced in Toronto

FACTUM

CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, ON
M2N 7E9

Harvey Chaiton (LSO # 21592F)
Tel:416-218-1129
Email: harvey@chaitons.com

Lawyers for the Receiver