



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-22-00679109-00CL DATE: 20 March 2023

NO. ON LIST: 2

TITLE OF PROCEEDING: Paul Joseph Dietrich v. Steven Robert McLaren
BEFORE JUSTICE: KIMMEL

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Danny Nunes	Applicant	danny.nunes@dlapiper.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Jeffrey Larry	Steve McLaren	jeff.larry@paliareroland.com
Joël Turgeon, For Bryan Gelman (Court-appointed Liquidator)	Albert Gelman Inc	jturgeon@reconllp.com bgelman@albertgelman.com
Greg Weedon	RE/MAX Hallmark First Group Realty Ltd. Brokerage	greg@weedonlaw.ca

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE KIMMEL:

1. Albert Gelman Inc. (“AGI”) was appointed liquidator of various companies pursuant to a consent appointment order made on April 4, 2022 (the “Appointment Order”). Pursuant to the Appointment Order, AGI listed a property owned by one of the companies under liquidation (1950979 Ontario Inc., “979”) located at 888 Whitefield Drive, Peterborough ON (the “Property”) for sale. In Furtherance thereof, AGI signed a listing agreement(s) with ReMax Hallmark first Group Realty Ltd. (“ReMax”).
2. A conditional agreement of purchase and sale (“APS”) was entered into to sell the Property to an affiliate of the applicant, Dietrich, but the transaction failed to close. Subsequently, Dietrich and McLaren entered into an agreement whereby McLaren agreed to acquire all of Dietrich’s shares in the companies under liquidation (the “SPA”).
3. ReMax claims to be entitled to its full commission (approximately \$440,000 plus HST) under the listing agreement(s), based on the selling price under the APS (the “ReMax Claims”).
4. It is a condition of closing under the APS that the ReMax Claims be resolved. The outside date for closing under the APS is June 30, 2023, although it is within the control of the parties to this proceeding to extend that outside closing date.
5. ReMax and the parties to this proceeding, including the applicant, respondent and AGI, are in agreement that it would be most efficient and expeditious for the ReMax Claims to be resolved within this liquidation proceeding. They are also in agreement that it is not anticipated that the resolution of the ReMax Claims will require the determination of contentious facts. Rather, they anticipate the motion by ReMax for payment of the commissions it claims are due under the listing agreement(s) signed by AGI on behalf of 979 will proceed on a record that is largely comprised of admitted documents and an agreed chronology of events that can be established through the exchange of motion materials, the ultimate dispute being a legal one rather than a factual one.
6. On the basis of that representation from counsel, a half-day motion has been scheduled for the court to determine the ReMax Claims on June 26, 2023.
7. The parties shall adhere to the following agreed timetable for the pre-hearing steps:
 - a. ReMax shall deliver its motion record (including notice of motion and supporting evidence) by April 26, 2023;
 - b. All responding motion records shall be delivered by May 3, 2023;
 - c. ReMax’s reply motion record, if any, shall be delivered by May 10, 2023;
 - d. Focused cross-examinations, if any, to be completed during the week of May 22, 2023 (by no later than May 26, 2023, but likely later in the week given that counsel for Dietrich is expected to be away until May 20, 2023);
 - e. ReMax’s factum to be delivered by June 7, 2023;
 - f. All responding factums to be delivered by June 14, 2023;
 - g. ReMax’s reply factum, if any, not to exceed 5 pages double spaced (to address only matters raised in the responding factums that were not anticipated in its moving factum) to be delivered by June 21, 2023;
 - h. All materials to be served and filed through the online filing portal in the normal course
 - i. All materials to be uploaded by counsel into the appropriate CaseLines bundle for this motion by no later than June 21, 2023.
8. The court cannot guarantee that a decision will be rendered on the ReMax Claims by June 30, 2023. Accordingly, it is expected that the applicant and respondent will likely need to agree to extend the outside closing date under the SPA to, at a minimum, allow sufficient time for the court to render its

decision. To be clear, this hearing has not been scheduled on the basis that the presiding judge will be asked to render an urgent decision on the ReMax Claims by June 30, 2023. The anticipated time line for the decision may be discussed at the June 26, 2023 hearing if the parties are not able to agree on an extended outside closing date.

9. This endorsement and the orders and directions contained in it shall have the immediate effect of a court order without the necessity of a formal order being taken out.

A handwritten signature in cursive script, appearing to read "Kimmel J.", written in dark ink.

KIMMEL J.