

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

B E T W E E N:

CAMERON STEPHENS MORTGAGE CAPITAL LTD.

Applicant

-and-

**2011836 ONTARIO CORP., JEFFERSON PROPERTIES LIMITED PARTNERSHIP,
1000162801 ONTARIO CORP., AMERICAN CORPORATION
and 1000199992 ONTARIO CORP.**

Respondents

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

FACTUM OF THE RECEIVER (VEXATIOUS LITIGANT MOTION)

June 26, 2026

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PART I. OVERVIEW

1. In this motion, Albert Gelman Inc. (“**AGI**”), the receiver and manager (in such capacity, the “**Receiver**”) of 2011836 Ontario Corp. (“**201**”) and Jefferson Properties Limited Partnership (“**JPLP**” and, together with 201, the “**Debtors**”) requests that the Court make an order declaring Fansey Wang (“**Fansey**”), the principal of the Debtors, a vexatious litigant.¹

2. Fansey has serially abused the Court’s processes by commencing a multiplicity of frivolous motions and appeals which seek to re-litigate final decisions made by this Court. Such conduct has deteriorated the value of the Debtors’ estate by forcing the Receiver to incur needless professional fees and has wasted Court time and resources. The Court should put a stop to this by declaring Fansey a vexatious litigant, thus requiring that Fansey obtain leave before commencing further proceedings.

3. In addition to a vexatious litigant order, the Receiver requests that the Court grant the following relief, among other things:

- (a) An injunction restraining Fansey from disseminating the Target Price List (being the confidential list of minimum prices under which the Receiver can convey certain condominium Units without attending a Court hearing) in a manner that contravenes the NDA Fansey entered into with the Receiver; and

¹ Capitalized terms not otherwise defined herein adopt the definition given to the in the Tenth Report of the Receiver dated March 26, 2026 (the “**Tenth Report**”)

- (b) An Order requiring Fanseay to post security for costs in connection with three motions in the amount of \$60,000 (\$20,000 each).

4. If the Court does not find it appropriate to declare Fanseay a vexatious litigant, the Receiver requests that the Court make an Order under Rule 37.16 of the *Rules of Civil Procedure* (the “**Rules**”) prohibiting Fanseay from filing motions in the within proceeding without leave of the Court.

5. The Receiver recommends that the Court grant the foregoing relief which is, in the Receiver’s view, in the best interests of the Debtors’ stakeholders.

PART II. FACTS

A. Background

6. On December 21, 2023, Justice Cavanagh appointed AGI as Receiver of the Debtors. JPLP is a limited partnership established for the purpose of constructing a condominium project (the “**Project**”) located at real property municipally known as 39, 53 and 67 Jefferson Side Road, Richmond Hill, Ontario (the “**Real Property**”).

7. The Project consists of 96 residential units, being 60 stacked condominium townhome units (the “**Stacked Units**”) and 36 freehold townhome units (the “**Freeholds**”) and, together with the Stacked Units, the “**Units**”).

B. Fanseay’s involvement in these proceedings

8. Fanseay’s involvement in the within proceedings is summarized in detail in the Tenth Report, as well as the First Supplement and Second Supplement to the Tenth Report, dated April 17 and June 10, 2026, respectively (the “**First Supplement**” and the “**Second Supplement**” and, together, the “**Supplements**”).

C. Fanseay's involvement in proceedings with Cameron Stephens

9. Fanseay is also involved in multiple proceedings with Cameron Stephens Mortgage Capital Ltd. ("**Cameron Stephens**"), the senior secured creditor of the Debtors, including:

- (a) Fanseay's appeal of Justice Kimmel's Order dated December 1, 2025 pursuant to which Fanseay was adjudged bankrupt;² and
- (b) an action commenced by Fanseay against Cameron Stephens and its two principals,³ the timing of which Justice Kimmel found to be "highly suggestive of a tactic being employed to stave off the inevitable, namely him being declared bankrupt"⁴; Her Honour also found that this action was a further attempt to hinder or delay the enforcement of rights under Cameron Stephens' security.⁵

10. A list of proceedings between Fanseay and Cameron Stephens is set out at Tab 1 to Cameron Stephens' Motion Record.⁶ A detailed account of Fanseay's conduct throughout those proceedings is summarized in the Xia Affidavit at Tab 2 to Cameron Stephens' Motion Record.⁷

² Fanseay's Notice of Appeal, filed on March 19, 2026, Exhibit "J" to the Affidavit of Yupei (Summer) Xia sworn May 8, 2026 ("**Xia Affidavit**"), Cameron Stephens' Motion Record, May 8, 2026 ("**CSMR**"), Tab 2, p. 147 [[A3073](#)].

³ Statement of Claim issued November 7, 2025, Exhibit "I" to the Xia Affidavit, CSMR, Tab 2, p. 124 [[A3048](#)].

⁴ Endorsement of Justice Kimmel dated December 1, 2025, at para. 72, Exhibit "H" to the Xia Affidavit, CSMR, Tab 2, p. 116 [[A3042](#)].

⁵ Endorsement of Justice Kimmel dated December 1, 2025, at para. 71, Exhibit "H" to the Xia Affidavit, CSMR, Tab 2, p. 116 [[A3042](#)].

⁶ Reply re. Potential Vexatious Litigant Order, CSMR, Tab 1, p. 2 [[A2928](#)].

⁷ See, generally, Xia Affidavit, CSMR, Tab 2, p. 6 [[A2932](#)].

11. As noted by Justice Myers, Fanseay's continued efforts to oppose steps that have already been heard and dismissed by the Court raise costs for all concerned, particularly, Cameron Stephens, who, as the senior secured creditor, will ultimately bear those costs through any shortfall in the within proceedings.⁸

PART III. STATEMENT OF ISSUES

12. This Motion raises the following issues:

- (a) Whether this Court should make a vexatious litigant order in respect of Fanseay or, alternatively, an order prohibiting Fanseay from filing further motions in the within proceedings without leave of the Court;
- (b) Whether this Court should enjoin Fanseay from circulating the Target Price List in a manner that contravenes the NDA;
- (c) Whether this Court should make an Order requiring Fanseay to post security for costs in connection with the Fanseay Motions; and
- (d) Whether this Court should approve the Receiver's conduct as set out in the Tenth Report and its supplements.

13. The Receiver submits that these issues should all be answered in the affirmative.

⁸ Endorsement of Justice Myers dated May 21, 2026, at para. 37, Appendix E to the Second Supplement to the Tenth Report ("**Second Supplement**"), Supplemental Motion Record of the Receiver, June 24, 2026 ("**SMR**"), Tab 2, p.154 [[E24495](#)].

PART IV. LAW

A. The Court should make a vexatious litigant order in respect of Fanseay

14. This Court should make an order declaring that Fanseay is a vexatious litigant, which will have the effect of preventing Fanseay from initiating or continuing proceedings without leave of the Court.

15. Vexatious proceedings, such as those that have been repeatedly brought by Fanseay in this matter, are at odds with the Court's goal of providing a fair and just process of resolving civil disputes efficiently, affordably and proportionately. As the Court of Appeal has stated:

Vexatious litigants are a drain on our system of justice. In addition to being a burden on the opposing parties, they are a burden on the judiciary and court personnel. [...] The cost and time incurred by opposing parties is significant, and adverse costs awards frequently cannot be relied upon to discourage future comparable behaviour.”⁹

16. Fanseay's conduct in this proceeding has had exactly such an effect on the Receiver, the Debtors' stakeholders and the Court system. It must be put to a stop.

17. Section 140 of the *Courts of Justice Act* empowers a judge to make an order preventing a person from commencing or continuing proceedings before the Court without leave, if that person “has persistently and without reasonable grounds instituted vexatious proceedings in any court or conducted a proceeding in any court in a vexatious manner.”¹⁰

18. Whether a party has “persistently and without reasonable grounds instituted vexatious proceedings in any court or conducted a proceeding in any court in a vexatious

⁹ *Lochner v. Ontario Civilian Police Commission*, [2020 ONCA 720](#), at para. 18.

¹⁰ *Courts of Justice Act*, [R.S.O. 1990, c. C.43, s. 140](#). [Rule 2.2](#) of the *Rules of Civil Procedure*, [R.R.O. 1990, Reg. 194](#), [“**Rules**”] set out the procedures to be followed by the Court in hearing an application for a declaration that a party is a vexatious litigant.

manner” is to be determined objectively, with a view to the entire record before the Court.¹¹

19. The case law has highlighted several forms of litigation conduct that can properly be characterized as vexatious including, but not limited to, constituting proceedings while failing to pay costs awards, rolling forward grounds and issues that have already been decided in prior proceedings, and bringing proceedings where no reasonable person would expect to obtain the relief sought.¹²

20. In this case, two key factors justify the Court declaring Fanseay a vexatious litigant (though these are not the only factors):

- (a) His persistent attempts to re-litigate issues addressed by prior Court decisions; and
- (b) His failure to pay a number of cost orders made against him, while persisting in commencing motions and appeals (which are themselves frivolous and vexatious).

1. Fanseay’s history of re-litigation

21. Fanseay has sought to re-litigate a number of issues that have been finally decided by this Court and, in so doing, has needlessly driven up the cost of this proceeding for all parties, which is to the detriment of all of the Debtors’ stakeholders.

¹¹ *Parimoo et al v. Amin et al.*, [2025 ONSC 3348](#), at para. 9; *Peoples Trust Company v. Atas*, [2018 ONSC 58](#), at para. 40, aff’d [2019 ONCA 359](#).

¹² *Lang Michener and Fabian (Re)* (1987), [1987 CanLII 172 \(ON HCJ\)](#), 59 O.R. (2d) 353. See also *The College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario v. Yan & Bahadur v. Yan*, [2025 ONSC 352](#) at para. 34, aff’d, [2026 ONCA 200](#), at para. 5; *Szot v. Cozzi*, [2025 ONCA 824](#), at para. 2.

22. In particular, the Receiver notes as follows:

- (a) Fanseay has repeatedly objected to and sought relief in respect of the Receiver's management decisions in relation to the construction of the Project, including the Receiver's decision to halt construction for safety reasons in January 2024 and the Receiver's decision to replace the Project's previous construction manager. The Court first ratified these decisions on June 18, 2024.¹³ Nevertheless, Fanseay has sought to re-litigate these issues in:
 - (i) The Receiver's motion for an increase in its authorized borrowing limit returnable May 2, 2025;¹⁴
 - (ii) The First Investigation Motion commenced by Fanseay;¹⁵
 - (iii) A Cross Motion brought by Fanseay in response to the Sales Process Motion, which was dismissed;¹⁶
 - (iv) Fanseay's proposed appeal of the Permitted Transaction Authorization Order, which was dismissed;¹⁷

¹³ Endorsement of Justice Steele, dated June 18, 2024, at paras. 49-56, Appendix C to the Tenth Report, RMR, Tab 2, p. 99-100 [[E23893](#)].

¹⁴ Endorsement of Justice Steele, dated May 2, 2025, at para. 3, Appendix F to the Tenth Report, RMR, Tab 2, p. 123 [[E23916](#)].

¹⁵ Notice of Motion of Fanseay Wang dated May 9, 2025, at paras. 7-15, Appendix G to the Tenth Report, RMR, Tab 2, p. 132 [[E23925](#)].

¹⁶ Cross Notice of Motion of Fanseay Wang dated October 16, 2025, at para. 6, Appendix P to the Tenth Report, RMR, Tab 2, p. 208 [[E24001](#)]; Endorsement of Justice Kimmel, dated November 28, 2025 at paras. 9-11, 56-57, RMR, Tab 2, pp. 215-216, 223 [[E24008](#)].

¹⁷ *Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp.*, [2026 ONCA 77](#) at [para. 30\(b\)](#).

- (v) The Receiver's motion for AVOs in respect of Pre-Receivership Agreements;¹⁸ and
- (vi) A proposed action by Fansey against the Receiver, personally;¹⁹
- (b) Fansey has repeatedly taken positions attacking the Permitted Transaction Authorization Order of Justice Dietrich, despite the fact that Fansey's appeal of this Order was dismissed on February 4, 2026;²⁰
- (c) Fansey has appealed virtually every order made in this proceeding since December 2025, including the cost order of Justice Conway of March 9, 2026, despite the fact that Fansey did not file cost submissions in relation to this cost award;²¹
- (d) Fansey has sought to schedule various motions seeking relief against the Receiver despite there being outstanding cost orders against him and despite the Court previously refusing to schedule such motions. As Justice Black characterized such conduct, Fansey refuses to "take no for an answer"²² – refusing to "take no for an answer" from the Court is a blatant abuse of process; and

¹⁸ Factum of Fansey Wang dated January 26, 2026 at paras. 3-6, Appendix W to the Tenth Report, RMR, Tab 2, p. 265 ([E24058](#)).

¹⁹ See, generally, Factum of Fansey Wang, dated February 24, 2026, Appendix DD to the Tenth Report, RMR, Tab 2, pp. 354-367 ([E24147](#)).

²⁰ See, for example, Endorsement of Justice Conway, dated February 11, 2026 at paras. 2-4, Appendix Z to the Tenth Report, RMR, Tab 2, pp. 313-314 ([A24106](#)).

²¹ Endorsement of Justice Conway dated March 9, 2026, at paras. 3-4, Appendix EE to the Tenth Report, RMR, Tab 2, p. 381 ([E24174](#)).

²² Endorsement of Justice Black, dated May 15, 2026, at para. 11, Appendix C to the Second Supplement, SMR, Tab 2, p. 128 ([E24469](#)).

- (e) Justice Myers explicitly found that Fanseay had engaged in an abuse of process²³ by seeking to re-litigate the prior findings of this Court in connection with a number of issues related to the receivership including the temporary shutdown of construction on the Project by the Receiver, Justice Dietrich's approval of the Target Prices for use in connection with Permitted Transactions and indeed the appointment of the Receiver itself, pursuant to the Appointment Order.

2. Fanseay's failure to pay cost orders

23. To date, Fanseay has been subject to 5 cost orders in favour of the Receiver in the cumulative principal amount of \$24,324.17, all of which are outstanding in their entirety and are set out below.²⁴

Date	Court/Judge	Amount	Indemnity Scale
04-Feb-26	Court of Appeal for Ontario/Justice Favreau	\$ 13,500.00	Partial
09-Mar-26	Ontario Superior Court of Justice (Commercial List)/Justice Coway	\$ 4,978.22	Partial
07-Apr-26	Ontario Superior Court of Justice (Commercial List)/Justice Conway	\$ 3,745.95	Substantial
15-May-26	Ontario Superior Court of Justice (Commercial List)/Justice Black	\$ 600.00	Substantial

²³ Endorsement of Justice Myers, dated May 21, 2026, at para. 34, Appendix E to the Second Supplement, SMR, Tab 2, p. 153 [\[E24494\]](#).

²⁴ Fanseay has filed appeals in respect of all of the cost orders made by justices of the Ontario Superior Court of Justice as well as an application for leave to appeal the order of Justice Favreau of the Court of Appeal for Ontario to the Supreme Court of Canada. However, these orders are not stayed pending Fanseay's purported appeals because Fanseay has no right of appeal: *Bankruptcy and Insolvency Act*, [R.S.C., 1985, c. B-3, ss. 193, 195-196](#) and *Royal Bank of Canada v. 1434399 Ontario Inc.*, [2025 ONCA 878](#) at [para. 17](#).

21-May-26	Ontario Superior Court of Justice (Commercial List)/Justice Myers	\$ 1,500.00	Partial
Total		\$	24,324.17

24. On May 21, 2026, Justice Myers found that Fanseay had engaged in the “deliberate and contemptuous” breach of these cost orders in that Fanseay failed to satisfy these cost orders while simultaneously representing to the Court that he has “other assets here and abroad which will sustain him.”²⁵

3. Fanseay is a vexatious litigant

25. Taken together, the foregoing conduct demonstrates that Fanseay simply does not intend to be bound by this Court’s decisions. This is unfair to other parties and stakeholders, is insulting to the Court and is an attack on the rule of law itself.

26. In similar circumstances, this Court has made vexatious litigant orders including, in particular, where litigants repeatedly seek to re-litigate settled issues through a multiplicity of proceedings and appeals despite being subject to unpaid cost awards, themselves.²⁶

27. The Court should assert control over its own processes in the face of such abusive and vexatious litigation conduct by declaring that Fanseay is a vexatious litigant and

²⁵ Endorsement of Justice Myers dated May 21, 2026, at para. 36, Appendix E to the Second Supplement, SMR, Tab 2, p. 156 [[E24494](#)].

²⁶ *Anthony v. Vinczer*, [2021 ONSC 6481](#), at paras. 86-96; *Bono General Construction Ltd. v. Susin*, [2005 CanLII 23 \(ON SC\)](#), at paras. 43-49, aff’d [2006 CanLII 24441 \(ON CA\)](#); *Barrie (City) v. Predie*, [2006 CanLII 12303 \(ON SC\)](#) at paras. 26-47; *Seferovic et al. v. 285 Spadina*, [2023 ONSC 5578](#).

preventing him from instituting further proceedings without first obtaining leave from this Court.

4. If the Court is not prepared to make an order declaring Fanseay a vexatious litigant, it should make an order restraining him from bringing further motions in this proceeding

28. Rule 37.16 provides that:

On motion by any party, a judge or associate judge may by order prohibit another party from making further motions in the proceeding without leave, where the judge or associate judge on the hearing of the motion is satisfied that the other party is attempting to delay or add to the costs of the proceeding or otherwise abuse the process of the court by a multiplicity of frivolous or vexatious motions.

29. The analysis applied to this rule is similar to the analysis applied to an application for a vexatious litigant order, except that the scope of r. 37.16 is narrower in that an order made pursuant to the rule only limits a party from bringing motions in a specific proceeding.²⁷

30. The Court has made an order under r. 37.16 where:

- (a) a litigant has repeatedly and unsuccessfully filed motions in the same proceeding;²⁸
- (b) a litigant has disregarded previous Court orders;²⁹ and
- (c) where there have been lengthy proceedings, including numerous and substantial unpaid costs orders against the litigant.³⁰

²⁷ *Seferovic et al. v. 285 Spadina*, [2023 ONSC 5578](#), at para. 10. See *Efthymiadis v. Universal Protection Service*, [2023 ONSC 4879](#), at para. 23; *Direk v. Ontario (Attorney General)*, [2011 ONSC 6375](#), paras. 6-7.

²⁸ *Huang v. Braga*, [2020 ONCA 645](#); *Children's Aid Society of Toronto v. V.D.*, [2017 ONCA 514](#).

²⁹ *Lum v. College of Physiotherapists of Ontario*, [2020 ONCA 271](#), at paras. 17-18.

³⁰ *Susin v. Susin*, [2018 ONCA 549](#), at para. 12.

31. All of these considerations apply to Fanseay's litigation conduct, as summarized above – the Court should grant such an Order in respect of Fanseay.

B. The Court should enjoin Fanseay from disseminating the Target Price List

32. Fanseay has disseminated the Target Price List, which contains sensitive pricing information related to the Units, on several occasions, despite having signed an NDA wherein he specifically agreed that he would not do so.³¹

33. The dissemination of the Target Price List by Fanseay directly undermines the Sales Process for the unsold Units provided for in the Sales Process Order and the Permitted Transaction Authorization Order, which, together, contemplate that the Receiver can obtain an approval and vesting order in connection with the sale of a Unit without attending Court so long as the sale price for the Unit exceeded a minimum Target Price.

34. The Sales Process Order sealed the Target Price List to ensure that it remained confidential so that prospective Unit purchasers could not use the list to strategically underbid for a Unit.³² This effort to protect the integrity of the Sales Process was specifically undermined by Fanseay's breach of the NDA through the dissemination of the Target Price List.

³¹ See NDA at para. 3, Appendix D to the Third Supplement to the Sixth Report of the Receiver dated January 8, 2026, SMR, Tab 3, p. 273 [\[E24614\]](#).

³² Endorsement of Justice Kimmel, dated November 28, 2025, at paras. 37-46, Appendix Q to the Tenth Report, RMR, Tab 2, pp. 221-222 [\[E24014\]](#).

1. The requirements for an injunction are satisfied

35. In Order to obtain final injunctive relief, as the Receiver requests here, a party is required to establish (1) its legal rights; (2) that damages are an inadequate remedy; and (3) that there is no impediment to the court's discretion to grant an injunction.³³

36. All three of these requirements are satisfied here:

- (a) The Receiver has an unambiguous contractual right to require that Fanseay refrain from disseminating the Target Price List. Fanseay does not dispute that he signed the NDA or that he disseminated the Target Price List, he merely asserts that "[t]o the extent I circulated materials or referred to the Target Price List, I did so in the context of this receivership proceeding and my attempt to raise concerns with the Court and stakeholders."³⁴ Fanseay's intention in disseminating the Target Price List is irrelevant to whether it was a breach of his obligations under the NDA, which are in no way contingent on Fanseay's intention;
- (b) Damages are an inadequate remedy because Fanseay is already subject to a number of cost orders in favour of the Reciever, which he has yet to pay. Fanseay has also been adjudged bankrupt (though this bankruptcy order is under appeal). An award of damages will therefore in no way provide for the vindication of the Receiver's/Debtors' legal rights. Courts have, further, recognized that a permanent injunction is generally an

³³ *Google Inc. v. Equustek Solutions Inc.*, [2017 SCC 34 at para. 66](#).

³⁴ Affidavit of Fanseay Wang, sworn May 22, 2026, at para. 55, Appendix E to the Tenth Report, RMR, Tab 2, p. 14 [\[F2686\]](#).

appropriate remedy in the case of a clear breach of a negative covenant,³⁵ and

- (c) There is no impediment to the Court granting the requested relief. The NDA specifically contemplated that the Receiver would be entitled to obtain an injunction in the event that Fanseay breached its terms³⁶ and, under the *Bankruptcy and Insolvency Act* (“**BIA**”), the Court is specifically conferred with jurisdiction in equity.³⁷ Fanseay has not raised any equitable or contractual doctrines which would prevent the Court from granting the relief sought by the Receiver.

37. While the Receiver was not able to locate a case where a permanent injunction was granted to restrain the dissemination of confidential information related to a sales process in an insolvency, the Court has in the past granted injunctive relief to restrain parties from using and disseminating confidential business information.³⁸

2. The Court has jurisdiction to grant final injunctive relief against Fanseay

38. While the Receiver is not seeking this order as part of a standalone action (which would be the typical, non-insolvency procedure to obtain a permanent injunction), the Court nevertheless has the jurisdiction to grant such an Order under the *BIA*.

³⁵ *5009678 Ontario Inc. v. Rock Developments Inc.*, [2020 ONSC 630](#) at para. 68.

³⁶ See NDA at para. 6, Appendix D to the Third Supplement to the Sixth Report of the Receiver dated January 8, 2026, SMR, Tab 3, p. 274 [[E24615](#)].

³⁷ *Bankruptcy and Insolvency Act*, [R.S.C., 1985, c. B-3, s. 183](#).

³⁸ *GasTOPS Ltd. v. Forsyth*, [2009 CanLII 66153 \(ON SC\)](#).

39. The Courts have repeatedly emphasized the broad, flexible jurisdiction of this Court to do what “justice dictates” and “practicality demands” in connection with receivership proceedings.³⁹

40. This broad jurisdiction includes the authority to dispense with the typical procedures for adjudicating claims on behalf of a debtor against other parties. In particular, this Court has held that:

[C]laims by a debtor against a third party may be required to be heard in the insolvency proceedings rather than in the jurisdiction or proceedings that would otherwise have applied. The determining factor is the degree of connection of the claim to the insolvency proceedings.⁴⁰

41. In this case, the relief sought by the Receiver on the Debtors’ behalf against Fanseay is intimately connected to the within insolvency proceedings. The Receiver is seeking to exercise the Debtors’ contractual rights against Fanseay to protect the integrity of a Court-supervised sales process in these receivership proceedings.

42. It would undermine the objectives of the *BIA* and its “single proceeding model” if the Receiver was required to commence a separate action to seek relief designed to protect the integrity of a sales process enacted under the auspices of the *BIA*.

C. The Court should require Fanseay to post security for costs in connection with the Fanseay Motions

43. Fanseay has commenced three outstanding motions which are referred to as the “Fanseay Motions” in the Tenth Report. These are:

³⁹ *Third Eye Capital Corporation v. Ressources Dianor Inc./Dianor Resources Inc.*, [2019 ONCA 508](#) at para. [72](#).

⁴⁰ *Royal Bank of Canada v. Mundo Media Ltd.*, [2022 ONSC 2147](#), at para. [27](#).

- (a) The First Investigation Motion⁴¹ and the Second Investigation Motion,⁴² both of which seek relief requiring the production of documents and information by the Receiver and the appointment of a “neutral, court-approved construction professional” or a “case management judge” to investigate and monitor the Receiver’s conduct; and
- (b) The Receiver Action Motion, which seeks leave to commence an action against the Receiver in connection with the allegation that the Receiver’s “administration departed materially from reasonable receivership practice in ways that caused significant delay, cost escalation, and loss of pre-sale certainty.”⁴³

44. The Court should make an order requiring Fansey to (1) post \$60,000 in security for the costs of the Fansey Motions (\$20,000 each) and (2) satisfy the outstanding cost awards against him,⁴⁴ and providing that the Fansey Motions are stayed and shall be dismissed if such payments are not made within 30 days of such order.

45. Though the *Rules* authorize the Court to make orders requiring security for costs in connection with actions and appeals, the Receiver submits that the Court has jurisdiction to make orders for security for costs in connection with these motions.⁴⁵

⁴¹ See Notice of Motion of Fansey Wang, Appendix G to the Tenth Report, RMR, Tab 2, p. 130 [\[E23923\]](#).

⁴² See Notice of Motion of Fansey Wang, Appendix N to the Tenth Report, RMR, Tab 2, p. 163 [\[E23956\]](#).

⁴³ See Factum of Fansey Wang at para. 15, Appendix DD to the Tenth Report, RMR, Tab 2, p. 353 [\[E24146\]](#).

⁴⁴ *Rathod v. Chijindu*, [2024 ONCA 625](#), at para. [18](#).

⁴⁵ *Di Paola, Re*, [2006 CanLII 37117](#) at paras. [12-21](#) (ON CA).

1. Principles governing security for costs

46. The *Rules* provide that the Court may make an order for security for costs where it appears that, among other things:⁴⁶

- (a) the plaintiff is ordinarily resident outside Ontario;
- (b) the defendant has an order against the plaintiff for costs in the same or another proceeding that remain unpaid in whole or in part; or
- (c) there is good reason to believe that the appeal is frivolous and vexatious and that the plaintiff has insufficient assets in Ontario to pay the costs of the defendant.

47. In considering a request for an order requiring security for costs, the Court will employ a two-step analysis:⁴⁷

- (a) First, the moving party has an onus to demonstrate that the party opposite falls within one of the enumerated categories in Rule 56.01(1); and
- (b) Second, if the moving party meets the initial onus, the onus shifts to the responding party to avoid security for costs by establishing that such an order would be unjust.⁴⁸

⁴⁶ See *Rules*, [rr. 56.01\(1\)](#), [61.06\(1\)](#).

⁴⁷ *Canadian Metal Buildings Inc. v 1467344 Ontario Limited*, [2019 ONSC 566](#) at para. [12](#) [“**Canadian Metal**”]; *Novak v. St. Demetrius (Ukrainian Catholic) Development Corporation*, [2018 ONCA 219](#) at para. [7](#); *Yaiguaje v. Chevron Corporation*, [2017 ONCA 827](#) at para. [24](#).

⁴⁸ *Canadian Metal* at para. [13](#).

2. The Receiver has satisfied its onus under the first branch of the test

48. The Receiver has satisfied these three separate conditions under r. 56.01(1):

- (a) Fanseay is ordinarily resident in China, not in Ontario. Fanseay explicitly identifies his address as being in Fuzhou, China in his Notice of Motion for leave to appeal the Cost Order and, as noted in the reasons for decisions of Justice Kimmel in connection with the order adjudging Fanseay bankrupt, Fanseay specifically stated that he resides in China.⁴⁹ The evidence clearly suggests that Fanseay is “ordinarily resident” outside of Ontario;⁵⁰
- (b) As noted above, Fanseay is subject to unpaid cost orders in the principal amount of \$24,324.17; and
- (c) There is good reason to believe that the Fanseay Motions are frivolous and vexatious and that Fanseay does not have sufficient assets to pay the Receiver’s costs in connection with the same:
 - (i) The Fanseay Motions are frivolous and vexatious:
 - 1) The First Investigation Motion and the Second Investigation Motion seek to litigate a number of issues that have already been finally decided by this Court including an order requiring the sale of the Project (the procedures for the sale of Units

⁴⁹ *Wang, Fengxi (Re)*, [2025 ONSC 6707](#) at para. [13](#). See also, Affidavit of Fanseay Wang, January 2, 2026, Appendix HH to the Tenth Report, RMR, Tab 2, p. 405, [[E24198](#)], where Fanseay states that he is “of the City of Fuzhou, People’s Republic of China.”

⁵⁰ *Hoe v. Ren et al.*, [2021 ONSC 3100](#) at para [15](#).

has already been established by the Sales Process Order). Further, these motions seek relief that has no basis in law and is doomed to fail, including the appointment of a “construction professional” to inspect the Project, seemingly as an additional Court-officer with the capacity to supervise the Receiver’s conduct. There is no basis in law for such relief and, even if there was, Fanseay has failed to identify any professional that has agreed to serve in such capacity; and

2) The Receiver Action Motion seeks leave for Fanseay to commence an action against the Receiver. The Receiver is insulated from liability, except to the extent the Receiver commits an act of gross negligence or wilful misconduct. Fanseay’s allegation of gross negligence and wilful misconduct against the Receiver amount to yet further attempts to re-litigate issues that have been decided by the Court in the Receiver’s favour, including:

a) The Receiver’s decision to halt construction activity and terminate various construction trade contracts in January 2024;⁵¹

⁵¹ Factum of Fanseay Wang at para. 15(b) and (c), Appendix DD to the Tenth Report, RMR, Tab 2, p. 354 [\[E24147\]](#).

- b) The Receiver's Court-authorized disclaimer of certain agreements of purchase and sale;⁵² and
 - c) The Receiver's marketing of the Units for sale in accordance with the Sales Process Order and the Permitted Transaction Authorization Order;⁵³ and
- (ii) Fanseay has acknowledged that he does not have sufficient assets to retain a lawyer on behalf of the Debtors. If Fanseay cannot pay for his own legal fees in this matter, he cannot pay for the Receiver's legal fees either.⁵⁴

3. Fanseay is unable to satisfy his onus under the second branch of the test

49. The interests of justice support the Court making an order requiring Fanseay to post security for the Receiver's costs in connection with the Fanseay Motions. In assessing whether an order for security for costs is just in the circumstances, the Court can consider, among other things, the merits of the claim, any delay in bringing the motion, the impact of the defendant's conduct on the plaintiff's available assets, access to justice concerns and the public importance of the litigation.⁵⁵

50. As noted in greater detail above, the Fanseay Motions are frivolous, have no merit and have no broader importance outside of this proceeding. On May 21, 2026, the Court

⁵² Factum of Fanseay Wang at para. 15(d), Appendix DD to the Tenth Report, RMR, Tab 2, p. 356 [\[E24149\]](#).

⁵³ Factum of Fanseay Wang at para. 15(g), Appendix DD to the Tenth Report, RMR, Tab 2, p. 359 [\[E24152\]](#).

⁵⁴ See Supplemental Factum of Fanseay Wang dated March 18, 2026 at para. 11, Appendix JJ to the Tenth Report, RMR, Tab 2, p. 435 [\[E24228\]](#). See, e.g. *2528092 Ontario Inc. v Serge Landry*, [2025 ONSC 5944](#) at para [20](#) [*"Landry"*]. Fanseay is also subject to a bankruptcy order (though this is under appeal).

⁵⁵ *Landry*, at para. [17](#).

denied Fanseay standing to participate in this proceeding on the basis of the outstanding cost orders against him – he should not be allowed to further inflate costs for stakeholders while simultaneously failing to comply with Court orders requiring him to be accountable for those costs.

51. The Receiver's interests in avoiding the diminution of the Debtors' estate through expenditure on legal fees responding to such frivolous motions far surpasses any access to justice concerns, given the above.

4. Quantum

52. Setting the quantum of security for costs is a discretionary exercise that is similar to the exercise of fixing the costs of the proceeding.⁵⁶ The Receiver submits that \$20,000 is the appropriate quantum for security for its costs of **each** of the Fanseay Motions, having regard to the complexity and frivolity of the Fanseay Motions. Such an amount represents, approximately, the Receiver's anticipated costs on a full indemnity basis for one such motion.⁵⁷

D. The Court should approve the Tenth Report and its supplements

53. The Court should approve the Tenth Report, the Supplements and the Receiver's conduct set out therein.

⁵⁶ *Hagshama Canada 9 Gold Ltd. v. Decade Urban Communities Corp.*, [2021 ONSC 5150](#) at para. [35](#).

⁵⁷ See Draft Bill of Costs of the Receiver, **Schedule C** hereto.

54. The Court has the jurisdiction to review and approve the activities of a court-appointed officer in an insolvency proceeding as set out in the officer's reports and will approve them where they are reasonable and appropriate in the circumstances.⁵⁸

55. The Tenth Report and the Supplements detail the Receiver's conduct in responding to Fanseay throughout the within proceedings, as well as the Receiver's view on the relief sought in this proceeding. This analysis has been completed for the benefit of the Debtors' estate in connection with the within motion and should be approved by this Court.

PART V. ORDER REQUESTED

56. The Receiver requests that this Court grant:

- (a) A vexatious litigant order in respect of Fanseay;
- (b) An injunction restraining Fanseay from disseminating the Target Price List in a manner that contravenes the NDA;
- (c) An Order requiring Fanseay to post security for costs in connection with the Fanseay Motions (and providing for their dismissal in the event he does not post such security as well as satisfy outstanding cost awards); and
- (d) An order approving the Tenth Report and the Supplements.

⁵⁸ *Cameron Stephens Mortgage Capital Ltd. v 2011836 Ontario Corp. et al.*, [2024 ONSC 3507](#) at paras. 48, 52, 57, citing *Target Canada Co. Re*, [2015 ONSC 7574](#) at paras. 2, 12; *Triple-I Capital Partners Limited v 12411300 Canada Inc.*, [2023 ONSC 3400](#) at para. 66; *Ravelston Corp. (Re)*, [2005 CanLII 63802 \(ON CA\)](#) at para. 40.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 26th day of June, 2026.



Ryan Shah

SCHEDULE “A” – AUTHORITIES CITED

2528092 Ontario Inc. v Serge Landry, [2025 ONSC 5944](#)

5009678 Ontario Inc. v. Rock Developments Inc., [2020 ONSC 630](#)

Anthony v. Vinczer, [2021 ONSC 6481](#)

Barrie (City) v. Predie, [2006 CanLII 12303 \(ON SC\)](#)

Bono General Construction Ltd. v. Susin, [2005 CanLII 23 \(ON SC\)](#)

Bono General Construction Ltd. v. Susin, [2006 CanLII 24441 \(ON CA\)](#)

Cameron Stephens Mortgage Capital Ltd. v 2011836 Ontario Corp. et al., [2024 ONSC 3507](#)

Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp., [2026 ONCA 77](#)

Canadian Metal Buildings Inc. v 1467344 Ontario Limited, [2019 ONSC 566](#)

Children's Aid Society of Toronto v. V.D., [2017 ONCA 514](#)

CTCMPAO v. Yan, [2026 ONCA 200](#)

Di Paola, Re, [2006 CanLII 37117 \(ON CA\)](#)

Direk v. Ontario (Attorney General), [2011 ONSC 6375](#)

Efthymiadis v. Universal Protection Service, [2023 ONSC 4879](#)

GasTOPS Ltd. v. Forsyth, [2009 CanLII 66153 \(ON SC\)](#)

Google Inc. v. Equustek Solutions Inc., [2017 SCC 34](#)

Hagshama Canada 9 Gold Ltd. v. Decade Urban Communities Corp., [2021 ONSC 5150](#)

Hoe v. Ren et al., [2021 ONSC 3100](#)

Huang v. Braga, [2020 ONCA 645](#)

Lang Michener and Fabian (Re) (1987), [1987 CanLII 172 \(ON HCJ\)](#), 59 O.R. (2d) 353

Lochner v. Ontario Civilian Police Commission, [2020 ONCA 720](#)

Lum v. College of Physiotherapists of Ontario, [2020 ONCA 271](#)

Novak v. St. Demetrius (Ukrainian Catholic) Development Corporation, [2018 ONCA 219](#)

Parimoo et al v. Amin et al., [2025 ONSC 3348](#)

Peoples Trust Company v. Atas, [2018 ONSC 58](#)

Peoples Trust Company v. Atas, [2019 ONCA 359](#)

Rathod v. Chijindu, [2024 ONCA 625](#)

Ravelston Corp. (Re), [2005 CanLII 63802 \(ON CA\)](#)

Royal Bank of Canada v. Mundo Media Ltd., [2022 ONSC 2147](#)

Royal Bank of Canada v. 1434399 Ontario Inc., [2025 ONCA 878](#)

Seferovic et al. v. 285 Spadina, [2023 ONSC 5578](#)

Susin v. Susin, [2018 ONCA 549](#)

Szot v. Cozzi, [2025 ONCA 824](#),

Target Canada Co. Re, [2015 ONSC 7574](#)

The College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario v. Yan & Bahadur v. Yan, [2025 ONSC 352](#)

Third Eye Capital Corporation v. Ressources Dianor Inc./Dianor Resources Inc., [2019 ONCA 508](#)

Triple-I Capital Partners Limited v 12411300 Canada Inc., [2023 ONSC 3400](#)

Wang, Fengxi (Re), [2025 ONSC 6707](#)

Yaiguaje v. Chevron Corporation, [2017 ONCA 827](#)

I, Ryan Shah, lawyer for the Receiver, certify that I am satisfied as to the authenticity of the above noted authorities on this 26th day of June, 2026:



SCHEDULE “B” – STATUTES AND REGULATIONS CITED

Bankruptcy and Insolvency Act, R.S.C., 1985, c. B-3, [s. 183](#)

Courts vested with jurisdiction

183 (1) The following courts are invested with such jurisdiction at law and in equity as will enable them to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during their respective terms, as they are now, or may be hereafter, held, and in vacation and in chambers:

- (a) in the Province of Ontario, the Superior Court of Justice;
- (b) [Repealed, 2001, c. 4, s. 33]
- (c) in the Provinces of Nova Scotia and British Columbia, the Supreme Court;
- (d) in the Provinces of New Brunswick and Alberta, the Court of Queen’s Bench;
- (e) in the Province of Prince Edward Island, the Supreme Court of the Province;
- (f) in the Provinces of Manitoba and Saskatchewan, the Court of Queen’s Bench;
- (g) in the Province of Newfoundland and Labrador, the Trial Division of the Supreme Court; and
- (h) in Yukon, the Supreme Court of Yukon, in the Northwest Territories, the Supreme Court of the Northwest Territories, and in Nunavut, the Nunavut Court of Justice.

Superior Court jurisdiction in the Province of Quebec

(1.1) In the Province of Quebec, the Superior Court is invested with the jurisdiction that will enable it to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during its term, as it is now, or may be hereafter, held, and in vacation and in chambers.

Courts of appeal — common law provinces

(2) Subject to subsection (2.1), the courts of appeal throughout Canada, within their respective jurisdictions, are invested with power and jurisdiction at law and in equity, according to their ordinary procedures, except as varied by this Act or the General Rules, to hear and determine appeals from the courts vested with original jurisdiction under this Act.

Court of Appeal of the Province of Quebec

(2.1) In the Province of Quebec, the Court of Appeal, within its jurisdiction, is invested with power and jurisdiction, according to its ordinary procedures, except as varied by this Act or the General Rules, to hear and determine appeals from the Superior Court.

Supreme Court of Canada

(3) The Supreme Court of Canada has jurisdiction to hear and to decide according to its ordinary procedure any appeal so permitted and to award costs.

Court of Appeal

193 Unless otherwise expressly provided, an appeal lies to the Court of Appeal from any order or decision of a judge of the court in the following cases:

- (a) if the point at issue involves future rights;
- (b) if the order or decision is likely to affect other cases of a similar nature in the bankruptcy proceedings;
- (c) if the property involved in the appeal exceeds in value ten thousand dollars;
- (d) from the grant of or refusal to grant a discharge if the aggregate unpaid claims of creditors exceed five hundred dollars; and
- (e) in any other case by leave of a judge of the Court of Appeal.

Stay of proceedings on filing of appeal

195 Except to the extent that an order or judgment appealed from is subject to provisional execution notwithstanding any appeal therefrom, all proceedings under an order or judgment appealed from shall be stayed until the appeal is disposed of, but the Court of Appeal or a judge thereof may vary or cancel the stay or the order for provisional execution if it appears that the appeal is not being prosecuted diligently, or for such other reason as the Court of Appeal or a judge thereof may deem proper.

No stay of proceedings unless ordered

196 An appeal to the Supreme Court of Canada does not operate as a stay of proceedings, except to the extent ordered by that Court.

Courts of Justice Act, R.S.O. 1990, c. C.43, s. 140

Vexatious litigant orders

140 (1) If a judge of the Superior Court of Justice or of the Court of Appeal is satisfied that a person has persistently and without reasonable grounds instituted vexatious proceedings in any court or conducted a proceeding in any court in a vexatious manner, the judge may make an order that includes any of the following terms:

1. No further proceeding may be instituted by the person in any court, except by leave of a judge of the Superior Court of Justice.

2. No proceeding previously instituted by the person in any court shall be continued, except by leave of a judge of the Superior Court of Justice.

3. Any other term that is just. 2024, c. 2, Sched. 6, s. 7 (1).

Procedure

(2) An order under subsection (1) may be made on a judge's own initiative or on motion or application by any person, as provided in the rules of court. 2024, c. 2, Sched. 6, s. 7 (1); 2024, c. 28, Sched. 4, s. 5.

Notice required

(2.1) An order under subsection (1) may only be made on notice to the person who is the subject of the order, as provided in the rules of court. 2024, c. 2, Sched. 6, s. 7 (1).

Branches of the Superior Court of Justice

(2.2) An order of the Superior Court of Justice under subsection (1) may be made by a judge presiding in any branch of that court. 2024, c. 2, Sched. 6, s. 7 (1).

Appeals and reviews

(2.3) The following rules apply with respect to an order made under subsection (1):

1. If the order was made by a judge of the Superior Court of Justice, an appeal of the order lies to a panel of the Court of Appeal.
2. If the order was made by a judge of the Court of Appeal, a panel of the Court of Appeal may, on motion, set aside or vary the decision.
3. For greater certainty, leave is not required to bring an appeal under paragraph 1 or a motion under paragraph 2, unless the court orders otherwise. 2024, c. 2, Sched. 6, s. 7 (1).

Application for leave to proceed

(3) Where a person against whom an order under subsection (1) has been made seeks leave to institute or continue a proceeding, the person shall do so by way of an application in the Superior Court of Justice. R.S.O. 1990, c. C.43, s. 140 (3); 1996, c. 25, s. 9 (17).

Leave to proceed

(4) Where an application for leave is made under subsection (3),

- (a) leave shall be granted only if the court is satisfied that the proceeding sought to be instituted or continued is not an abuse of process and that there are reasonable grounds for the proceeding;

- (b) the person making the application for leave may seek the rescission of the order made under subsection (1) but may not seek any other relief on the application;
- (c) the court may rescind the order made under subsection (1);
- (d) the Attorney General is entitled to be heard on the application; and
- (e) no appeal lies from a refusal to grant relief to the applicant. R.S.O. 1990, c. C.43, s. 140 (4).

Abuse of process

(5) Nothing in this section limits the authority of a court to stay or dismiss a proceeding as an abuse of process or on any other ground. R.S.O. 1990, c. C.43, s. 140 (5).

Deputy judges

(6) For greater certainty, a reference to a judge of the Superior Court of Justice in this section does not include a reference to a deputy judge.

Rules of Civil Procedure, RRO 1990, Reg 194

Interpretation

2.2.01 In this Rule,

“notified person” means a person, other than the potential subject of a vexatious litigant order, who receives a notice under rule 2.2.03 or 2.2.04; (“personne avisée”)

“participant” means, as the case may be,

- (a) the person who is the potential subject of a vexatious litigant order,
- (b) a notified person who serves and files a reply in accordance with subrule 2.2.05 (2), or
- (c) the moving party or applicant under rule 2.2.03, if any; (“participant”)

“vexatious litigant order” means an order under subsection 140 (1) of the *Courts of Justice Act*. (“ordonnance de déclaration de plaideur quérulent”) O. Reg. 322/24, s. 1.

Vexatious Litigant Order

2.2.02 A vexatious litigant order may be made,

- (a) on a person’s motion or application, commenced in accordance with rule 2.2.03;
- or

- (b) on a judge's initiative, initiated in accordance with rule 2.2.04. O. Reg. 322/24, s. 1.

Order Sought by Person

By Motion or Application

2.2.03 (1) A vexatious litigant order against a person may be sought,

- (a) by motion in accordance with subrule (2), if the person is a party to an ongoing proceeding and the order is sought by another party in the proceeding; or
- (b) in any other case, by application made in the Superior Court of Justice in accordance with subrule (3). O. Reg. 322/24, s. 1.

If by Motion

(2) For the purposes of clause (1) (a), the moving party shall serve on the persons listed in subrule (5) and file with proof of service a notice of motion for a vexatious litigant order (Form 2.2A). O. Reg. 322/24, s. 1.

If by Application

(3) For the purposes of clause (1) (b), following issuance of a notice of application for a vexatious litigant order (Form 2.2B) as provided by rule 14.07, the applicant shall serve the notice on the persons listed in subrule (5) and file it with proof of service. O. Reg. 322/24, s. 1.

Notice Requirements

(4) A notice in Form 2.2A or 2.2B shall set out,

- (a) the grounds on which the vexatious litigant order is sought; and
- (b) the following information, to the extent that it can be determined by the moving party or applicant using their best efforts:
 - (i) The file number, location and title of any ongoing proceeding in any court in Ontario to which the person against whom the vexatious litigant order is sought is a party, and the address for service of every other party to any such proceeding.
 - (ii) The file number, location and title of any proceeding that was finally disposed of in any court in Ontario to which the person against whom the vexatious litigant order is sought was a party.
 - (iii) The citation of every reported decision made in the course of a proceeding referred to in subclause (i) or (ii). O. Reg. 322/24, s. 1.

Service

(5) A notice in Form 2.2A or 2.2B shall be served on,

(a) the person against whom the order is sought; and

(b) every party to a proceeding set out in the notice under subclause (4) (b) (i). O. Reg. 322/24, s. 1.

(6) Rule 16.04 applies with respect to service under this rule, except that a judge may not make an order dispensing with service on the person against whom the vexatious litigant order is sought. O. Reg. 322/24, s. 1.

Non-Application of Certain Rules

(7) Unless this Rule or a court order provides otherwise, Rules 37, 38 and 39 do not apply with respect to a motion or application under this rule. O. Reg. 322/24, s. 1.

On Judge's Own Initiative

Registrar's Notice

2.2.04 (1) If it appears to a judge of a court that a vexatious litigant order against a party to an ongoing proceeding in that court may be warranted, the judge may give written direction to the registrar to prepare a registrar's notice proposing consideration of a vexatious litigant order (Form 2.2C). O. Reg. 322/24, s. 1.

(2) The written direction shall,

(a) specify the information the registrar is required to include in the notice, which shall either be the information listed in subrule 2.2.03 (4), with necessary modifications, or such other information as the judge may specify in the direction; and

(b) be attached to the notice. O. Reg. 322/24, s. 1.

No Review

(3) The written direction may not be set aside or varied. O. Reg. 322/24, s. 1.

Registrar to Send, File Notice

(4) The registrar shall,

(a) subject to subrule (5), send the notice by mail or email to the persons referred to in subrule 2.2.03 (5), with necessary modifications; and

(b) file a copy of the notice, and a list of the persons to whom it was sent, in the court file. O. Reg. 322/24, s. 1.

(5) The judge may give directions to the registrar respecting how to send the notice and to whom, but shall not direct the registrar to dispense with sending the notice to the person who is the potential subject of a vexatious litigant order. O. Reg. 322/24, s. 1.

(6) Rule 16 applies with necessary modifications to the determination of whether and when the notice is considered to have been received, unless any directions given under subrule (5) require otherwise. O. Reg. 322/24, s. 1.

Response and Reply

Response

2.2.05 (1) The person who is the potential subject of a vexatious litigant order may, within 20 days after receiving a notice in Form 2.2A, 2.2B or 2.2C,

(a) serve a response in Form 2.2D on every notified person and, if applicable, the moving party or applicant; and

(b) file the response with proof of service. O. Reg. 322/24, s. 1.

Reply

(2) A moving party, applicant or notified person may serve and file with proof of service a reply in Form 2.2E, within,

(a) 20 days after receiving a response; or

(b) if no response is served, 30 days after serving or receiving the notice, as the case may be. O. Reg. 322/24, s. 1.

(3) A reply shall be served on the person who is the potential subject of a vexatious litigant order, on every notified person and, if applicable, on the moving party or applicant. O. Reg. 322/24, s. 1.

Effect of Not Replying

(4) A notified person who does not file a reply is not entitled to be heard at any hearing of the matter under rule 2.2.07 without leave of a judge. O. Reg. 322/24, s. 1.

(5) Subrule (4) does not affect any entitlement under rule 2.2.06 or 2.2.07 of a person to receive or obtain a copy of an order, decision or reasons. O. Reg. 322/24, s. 1.

Initial Review and Order

2.2.06 (1) After the time for filing a response and any replies has passed, a judge shall conduct an initial review of the notice and submissions, following which the judge shall make an order in Form 2.2F,

(a) directing that a hearing of the matter be held under rule 2.2.07; or

(b) dismissing the matter, with reasons. O. Reg. 322/24, s. 1.

(2) Without limiting the generality of rule 1.05, the judge may, in making an order under subrule (1),

(a) direct that a participant serve and file a motion record in accordance with Rule 37 or application record in accordance with Rule 38, with such modifications as the judge may specify;

(b) direct a participant to file supplementary arguments or further evidence;

(c) direct the person who is the potential subject of a vexatious litigant order to confirm every ongoing proceeding to which they are a party, and the name and address for service of every other party to any such proceeding;

(d) direct a participant to conduct a search to confirm every ongoing proceeding to which the person who is the potential subject of a vexatious litigant order is a party, and the name and address for service of every other party to any such proceeding;

(e) direct a participant to prepare a draft order in Form 2.2G;

(f) if notice was given in respect of an ongoing proceeding (Form 2.2A or 2.2C) and the judge is directing a hearing under rule 2.2.07, order a stay of the ongoing proceeding pending the determination of the matter; or

(g) establish a timetable. O. Reg. 322/24, s. 1.

Issuance of Order

(3) The registrar shall issue the order, as signed by the judge, and subrules 59.04 (1) and (2) apply with necessary modifications with respect to the issuance. O. Reg. 322/24, s. 1.

Copy of Order

(4) A copy of the order shall promptly be provided, by a method listed in subrule 59.04 (4), to each of the participants and any other person a judge may order. O. Reg. 322/24, s. 1.

No Review

(5) An order under subrule (1) directing a hearing of the matter or dismissing it may not be set aside or varied. O. Reg. 322/24, s. 1.

Hearing and Disposition

Powers of Judge

2.2.07 (1) The judge presiding at the hearing to determine whether to make a vexatious litigant order may make such orders and give such directions as the judge considers appropriate in the interest of justice. O. Reg. 322/24, s. 1.

Determination Following Hearing

(2) Following the hearing, the judge shall,

(a) make a vexatious litigant order in Form 2.2G, with reasons; or

(b) decline to make a vexatious litigant order, with reasons. O. Reg. 322/24, s. 1.

(3) For greater certainty, rule 1.05 applies with respect to an order made under subrule (2). O. Reg. 322/24, s. 1.

If Vexatious Litigant Order is Made

(4) If making a vexatious litigant order, the judge shall specify the details of any limitations in the order's application. O. Reg. 322/24, s. 1.

(5) A vexatious litigant order shall include reference to the right of appeal or review under subsection 140 (2.3) of the *Courts of Justice Act*. O. Reg. 322/24, s. 1.

Issuance of Order

(6) The registrar shall issue the vexatious litigant order, as signed by the judge, and subrules 59.04 (1) and (2) apply with necessary modifications with respect to the issuance. O. Reg. 322/24, s. 1.

Copy of Order

(7) The issued vexatious litigant order and reasons shall promptly be provided, by a method listed in subrule 59.04 (4), to each of the participants, any other notified person and any other person a judge may order. O. Reg. 322/24, s. 1.

(8) The registrar shall provide a copy of every issued vexatious litigant order and reasons to the Court Services Division of the Ministry of the Attorney General for the purposes of inclusion in the index of vexatious litigant orders administered by the Division. O. Reg. 322/24, s. 1.

If Vexatious Litigant Order is Not Made

(9) If the judge makes an order under clause (2) (b) declining to make a vexatious litigant order, any participant may require the registrar to issue and enter an order reflecting the judge's decision by filing a requisition (Form 4E) and draft order (Form 59A or 59B). O. Reg. 322/24, s. 1.

Leave Despite Order

2.2.08 A person who is the subject of a vexatious litigant order may, in the manner provided for under subrule 38.01 (3), seek leave under subsection 140 (3) of the *Courts of Justice Act* to institute or continue a proceeding. O. Reg. 322/24, s. 1.

Proceeding Instituted, Continued without Leave

PART VI. *Court Shall Order Stay, Dismissal*

2.2.09 (1) If a proceeding is instituted or continued without leave by a plaintiff, applicant or appellant who is the subject of a vexatious litigant order, and the court determines that the proceeding is subject to the vexatious litigant order, the court shall make an order staying or dismissing the proceeding. O. Reg. 322/24, s. 1.

Request for Order

(2) A party to the proceeding may file a request with the court for an order under subrule (1). O. Reg. 322/24, s. 1.

Notice Not Required

(3) The order may be made without notice. O. Reg. 322/24, s. 1.

Copy of Order

(4) Once the order has been made, a copy of it shall promptly be provided to every party to the proceeding by a method listed in subrule 59.04 (4). O. Reg. 322/24, s. 1.

Refusal by Registrar

(5) Nothing in this rule prevents a registrar from refusing to issue an originating process or accept a document for filing in a proceeding if the registrar has determined that,

- (a) the plaintiff, applicant or appellant is the subject of a vexatious litigant order;
- (b) the proceeding is subject to the vexatious litigant order; and
- (c) the plaintiff, applicant or appellant has not obtained leave to institute or continue the proceeding.

Where Available

56.01 (1) The court, on motion by the defendant or respondent in a proceeding, may make such order for security for costs as is just where it appears that,

- (a) the plaintiff or applicant is ordinarily resident outside Ontario;
- (b) the plaintiff or applicant has another proceeding for the same relief pending in Ontario or elsewhere;
- (c) the defendant or respondent has an order against the plaintiff or applicant for costs in the same or another proceeding that remain unpaid in whole or in part;

(d) the plaintiff or applicant is a corporation or a nominal plaintiff or applicant, and there is good reason to believe that the plaintiff or applicant has insufficient assets in Ontario to pay the costs of the defendant or respondent;

(e) there is good reason to believe that the action or application is frivolous and vexatious and that the plaintiff or applicant has insufficient assets in Ontario to pay the costs of the defendant or respondent; or

(f) a statute entitles the defendant or respondent to security for costs.

(2) Subrule (1) applies with necessary modifications to a party to a garnishment, interpleader or other issue who is an active claimant and would, if a plaintiff, be liable to give security for costs.

Security for Costs of Appeal

61.06 (1) In an appeal where it appears that,

(a) there is good reason to believe that the appeal is frivolous and vexatious and that the appellant has insufficient assets in Ontario to pay the costs of the appeal;

(b) an order for security for costs could be made against the appellant under rule 56.01; or

(c) for other good reason, security for costs should be ordered,

a judge of the appellate court, on motion by the respondent, may make such order for security for costs of the proceeding and of the appeal as is just.

(1.1) If an order is made under subrule (1), rules 56.04, 56.05, 56.07 and 56.08 apply, with necessary modifications.

(2) If an appellant fails to comply with an order under subrule (1), a judge of the appellate court on motion may dismiss the appeal.

SCHEDULE “C”

Court File No. CV-23-00710795-00CL

ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)

B E T W E E N:

CAMERON STEPHENS MORTGAGE CAPITAL LTD.

Applicant

-and-

**2011836 ONTARIO CORP., JEFFERSON PROPERTIES LIMITED PARTNERSHIP,
1000162801 ONTARIO CORP., AMERICAN CORPORATION
and 1000199992 ONTARIO CORP.**

Respondents

DRAFT BILL OF COSTS OF RECEIVER, ALBERT GELMAN INC.

FEES

PREPARATION OF MATERIALS

- Preparation of Motion Record
- Preparation of Factum
- Review of materials filed by opposing party

Name	Hours	Partial Indemnity Rate / Fees (60%)	Substantial Indemnity Rate / Fees (90%)	Actual Rate / Fees
Ryan Shah	14.0	\$360.00/hr. Fees: 5,040.00	\$540.00/hr. Fees: \$7,560.00	\$600.00/hr. Fees: \$8,400.00
Student	10.0	\$165.00/hr. Fees: \$1,650.00	\$247.50/hr. Fees: \$2,475.00	\$275.00/hr. Fees: \$2,750.00
Total	24.0	\$6,690.00	\$10,035.00	\$11,150.00

CORRESPONDENCE

- Correspondence with client
- Correspondence with opposing party
- Correspondence with Court

Name	Hours	Partial Indemnity Rate / Fees	Substantial Indemnity Rate / Fees	Actual Rate / Fees
Ryan Shah	2.0	\$360.00/hr. Fees: \$720.00	\$540.00/hr. Fees: \$1,080.00	\$600.00/hr. Fees: \$1,200.00
Total	2.0	\$720.00	\$1,080.00	\$1,200.00

PREPARATION FOR ATTENDANCE AT MOTION HEARING

- Preparation for attendance on [DATE]

Name	Hours	Partial Indemnity Rate / Fees	Substantial Indemnity Rate / Fees	Actual Rate / Fees
Ryan Shah	4.0	\$360.00/hr. Fees: \$1,440.00	\$540.00/hr. Fees: \$2,160.00	\$600.00/hr. Fees: \$2,400.00
Total	4.0	\$1,440.00	\$2,160.00	\$2,400.00

ATTENDANCE AT MOTION HEARING

- Attendance on [DATE]

Name	Hours	Partial Indemnity Rate / Fees	Substantial Indemnity Rate / Fees	Actual Rate / Fees
Ryan Shah	4.0	\$360.00/hr. Fees: \$1,440.00	\$540.00/hr. Fees: \$2,160.00	\$600.00/hr. Fees: \$2,400.00
Total	4.0	\$1,440.00	\$2,160.00	\$2,400.00

DISBURSEMENTS

N/A

SUMMARY – FEES, DISBURSEMENTS AND HST

	Partial Indemnity (60% of Actual)	Substantial Indemnity (90% of Actual)	Actual
Fees: Preparation and Pleadings	\$6,690.00	\$10,035.00	\$11,150.00
Fees: Correspondence	\$720.00	\$1,080.00	\$1,200.00
Fees: Hearing Preparation	\$1,440.00	\$2,160.00	\$2,400.00
Fees: Hearing Attendance	\$1,440.00	\$2,160.00	\$2,400.00
Total Fees	\$10,290.00	\$15,435.00	\$17,150.00
HST on fees	\$1,337.70	\$2,006.55	\$2,229.50
Total fees and HST	<u>\$11,627.70</u>	<u>\$17,441.55</u>	<u>\$19,379.50</u>

STATEMENT OF EXPERIENCE

Name	Year of Call	Years of Experience
Ryan Shah	2023	3
Student	NA	NA

[DATE]

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Lawyers for the Receiver, Albert Gelman Inc.

**CAMERON STEPHENS MORTGAGE
CAPITAL LTD.**

Applicant

and

2011836 ONTARIO CORP., et al.

Respondents

Court File No. CV-23-00710795-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
APPLICATION UNDER SUBSECTION 243(1) OF
THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3, AS AMENDED AND SECTION
101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43,
AS AMENDED
Proceeding commenced at Toronto**

**DRAFT BILL OF COSTS OF RECEIVER, ALBERT
GELMAN INC**

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**CAMERON STEPHENS MORTGAGE
CAPITAL LTD.**

Applicant

and **2011836 ONTARIO CORP., et al.**

Respondents

Court File No. CV-23-00710795-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
APPLICATION UNDER SUBSECTION 243(1) OF
THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3, AS AMENDED AND
SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c.
C.43, AS AMENDED
Proceeding commenced at Toronto**

**FACTUM OF THE RECEIVER (VEXATIOUS
LITIGANT MOTION)**

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