



SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL SLIP/ ENDORSEMENT FORM

COURT FILE NO.: CV-24-00715321-00CL DATE: OCTOBER 1, 2025

NO. ON LIST: 1

TITLE OF PROCEEDING: CONSTANTINE ENTERPRISES INC. v. MIZRAHI (128 HAZELTON) INC. ET AL.

BEFORE: JUSTICE W.D. BLACK

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Jeremy Bornstein	Constantine Enterprises Inc.	jbornstein@cassels.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
David Trafford	Mizrahi Inc. and Sam Mizrahi	dtrafford@morsetrafford.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
James Renihan	Receiver	james.renihan@nortonrosefulbright.com

ENDORSEMENT

[1] The court-appointed Receiver has served a motion record seeking judgment within this proceeding against Mizrahi Inc. and Sam Mizrahi ("M & M"), and damages for alleged over-billing, as well as damages following from a termination of a Development Management Agreement.

- [2] The Receiver served its materials for that motion on July 18, 2025, after having advised the responding parties on February 7, 2025, of its intention to do so, and having invited M & M to provide the Receiver with additional documents relevant to the issues proposed to be addressed in the Receiver's motion (which they did not do).
- [3] On September 28, 2025, M & M advised that they intended to bring a motion to require that the Receiver's claims proceed by way of action, and that they would not be in a position to deliver materials for that proposed motion until early November.
- [4] The first issue to address today was whether M & M's proposed motion should proceed separately and in advance of the Receiver's motion for judgment or should be heard together with the Receiver's motion.
- [5] I directed that the motions should be dealt with together on the same date. In my view, in order to make the pitch that they propose to make to convert the proceeding to an action, M & M will be obliged to cover much of the same evidentiary ground that they will necessarily cover in responding to the Receiver's motion, and it will be beneficial for the court to have a full view of the relevant matters in order to determine the motions.
- [6] Accordingly, a full day hearing has been booked for February 4, 2026, for both matters to be argued.
- [7] In the meantime, it was agreed that M & M will deliver their responding materials (including in respect of the relief they will seek), by November 28, 2025. Reply materials, if any, are to be delivered by December 22, 2025, (and at that time the Receiver is also to advise of any Rule 39 examinations it proposes to conduct. Cross-examinations, if any, and any Rule 39 examinations, are to be completed by January 26, 2026, (we had talked about cross-examinations being completed by the end of January), but it seems to me that given the hearing is on February 4, cross-examinations will have to be completed by January 26 in order for that evidence to be incorporated into the record for the February 4 hearing.



W.D. BLACK J.

RELEASED: OCTOBER 10, 2025