

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

B E T W E E N:

CONSTANTINE ENTERPRISES INC.

Applicant

- AND -

**MIZRAHI (128 HAZELTON) INC. and
MIZRAHI 128 HAZELTON RETAIL INC.**

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*

**MOTION RECORD OF THE RESPONDENT/CREDITOR
PENEGAL TRIM & SUPPLY LTD.
(Returnable on June 11, 2026 at 9:30am)**

**APPEARANCE TO SEEK ORDER ON CONSENT PURSUANT TO SECTION 37(1)
OF THE CONSTRUCTION ACT, R.S.O. 1990, C. C.30**

Date: May 28, 2026

**PICCIN BOTTOS
PROFESSIONAL CORPORATION**
4370 Steeles Avenue West, Suite 201
Woodbridge, Ontario, L4L 4Y4

JONATHAN PICCIN (LSO# 68973J)
Tel: (905) 850-0155
Email: jpccin@piccinbottos.com

Lawyers for the Respondent/Creditor
Penegal Trim & Supply Ltd.

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

B E T W E E N:

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**PENEGAL TRIM & SUPPLY LTD.
(Returnable on June 11, 2026 at 9:30am)**

**APPEARANCE TO SEEK ORDER ON CONSENT PURSUANT TO SECTION 37(1) OF
THE CONSTRUCTION ACT, R.S.O. 1990, C. C.30**

No.	TAB INDEX
1.	Notice of Motion dated May 28, 2026
2.	Motion Scheduling Confirmation Emails
3.	Draft Order

TAB 1

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

B E T W E E N:

CONSTANTINE ENTERPRISES INC.

Applicant

- AND -

**MIZRAHI (128 HAZELTON) INC. and
MIZRAHI 138 HAZELTON RETAIL INC.**

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,**

NOTICE OF MOTION

The Respondent/Creditor Penegal Trim & Supply Ltd., ("**Penegal**"), will make a motion to before the Honourable Justice Cavanagh of the Superior Court of Justice (Commercial List) on Thursday, June 11, 2026, at 9:30 AM, or as soon after that time as the Motion can be heard.

PROPOSED METHOD OF HEARING:

- In writing under subrule 37.12.1(1) because it is;
- In writing as an opposed motion under subrule 37.12.1(4);
- In person;
- By telephone conference;
- By video conference.

At the following location:

Video Link to be provided once obtained from the Court.

THE MOTION IS FOR AN ORDER:

1 In the form attached as **Schedule “A”** to this Notice of Motion, with respect to a court action bearing court file no. CV-24-00722234-0000 (the **“Penegal Lien Action”**), which has been stayed as part of the receivership proceedings, that:

- (a) with respect to the Penegal Lien Action, the requirements of Rule 48.01 and Rule 48.02 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg 194, be and hereby are dispensed with;
- (b) there be a trial of the Penegal Lien Action and that the Registrar shall place the Penegal Lien Action on the appropriate trial list, pursuant to Rule 48.05(1) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg 194, at the request of any party to the Penegal Lien Action;
- (c) the Order granted constitutes an order for the trial of an action in which the lien of the lien claimant, Penegal Trim & Supply Ltd., may be enforced, and that section 37(1) of the *Construction Act*, R.S.O. 1990, c. C.30 (the **“Construction Act”**) is hereby deemed to be complied with; and
- (d) there be no order for costs of this motion; and

2 That the stay of proceedings be lifted solely for the purpose of granting the requested Order, and that the stay of proceedings continue in full force and effect subsequent to the granting of the requested Order; and

3 If necessary, abridging and validating the time for service and filing of this notice of motion and supporting material.

THE GROUNDS FOR THE MOTION ARE:

4 Penegal, a lien claimant, registered a claim for lien against title to the property located at 128 Hazelton Avenue in Toronto, Ontario (the “**Property**”) on May 10, 2025 (the “**Penegal Lien**”). Penegal subsequently perfected the Penegal Lien by commencing the Penegal Lien Action on June 17, 2024;

5 The Penegal Lien Action was stayed pursuant to paragraph 9 of the Order of Justice Cavanagh dated June 4, 2024, appointing a receiver pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 and, among other things, staying all proceedings in respect of the Property;

6 Pursuant to section 37(1) of the *Construction Act*, the Penegal Lien expires following the second anniversary of the Penegal Lien Action, being June 17, 2026, unless an order is made for the trial of an action in which the lien may be enforced or an action in which the lien may be enforced is set down for trial;

7 All parties to the Penegal Lien Action have consented to the Order in the form attached as **Schedule “A”** to this Notice of Motion;

8 The Receiver consents to a lifting of the stay of proceedings for the purpose of obtaining the requested Order;

9 Rules 1.04(1), 1.05, 48.01, 48.02(1), 48.02(2), 48.03, and 48.05(1) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194; and

10 Section 37(1) of the Construction Act.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1 such evidence as counsel may advise and this Court may permit.

Date: May 28, 2026

**PICCIN BOTTOS
PROFESSIONAL CORPORATION**
4370 Steeles Avenue West, Suite 201
Woodbridge, Ontario, L4L 4Y4

JONATHAN PICCIN (LSO# 68973J)
Tel: (905) 850-0155
Email: jpicc@piccinbottos.com

Lawyers for the Respondent/Creditor
Penegal Trim & Supply Ltd.

SCHEDULE "A"

Court File No. CV-24-00722234-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF the *Construction Act*, R.S.O. 1990, c. C.30

THE HONOURABLE) DAY, THE _____
)
JUSTICE CAVANAGH) DAY OF _____, 2026

B E T W E E N:

PENEGAL TRIM & SUPPLY LTD.

Plaintiff

- and -

**MIZRAHI (128 HAZELTON) INC., AVIVA INSURANCE COMPANY OF CANADA, and
CONSTANTINE ENTERPRISES INC.**

Defendants

ORDER

THIS MOTION, made by the plaintiff, Penegal Trim & Supply Ltd., for an order dispensing with the requirements of Rule 48 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 and for the trial of this matter, was heard this day at 330 University Avenue, Toronto, ON, M5G 1R7.

ON READING the materials filed in respect of the motion heard, and on consent of all parties:

1. **THIS COURT ORDERS** that the requirements of Rule 48.01 and Rule 48.02 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, be and hereby are dispensed with.

2. **THIS COURT ORDERS** that there be a trial of this action and that the Registrar shall place this action on the appropriate trial list, pursuant to Rule 48.05(1) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, at the request of any party to this action

3. **THIS COURT ORDERS** that this Order constitutes an order for the trial of an action in which the lien of the plaintiff, Penegal Trim & Supply Ltd., may be enforced, and that section 37(1) of the *Construction Act*, R.S.O. 1990, c. C.30 is hereby deemed to be complied with.

4. **THIS COURT ORDERS** that, but for the actions in paragraphs 1-3 herein, no further steps will be taken without a further Order or the consent of the Receiver.

5. **THIS COURT ORDERS** that there be no order for costs of this consent motion.

Date of issuance

PENEGAL TRIM & SUPPLY LTD.
Plaintiff

and

MIZRAHI (128 HAZELTON) INC., et al
Defendants

Court File No. CV-24-00722234-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

In a proceeding under the Construction Lien Act (and/or the Construction Act), R.S.O. 1990 (c. C30)

Proceeding commenced at **TORONTO**

ORDER

**PICCIN BOTTOS
PROFESSIONAL CORPORATION**
4370 Steeles Avenue West, Suite 201
Woodbridge, Ontario, L4L 4Y4

JONATHAN PICCIN (LSO# 68973J)
Tel: (905) 850-0155 ext. 240
Email: jpccin@piccinbottos.com

Counsel for the Plaintiff/Lien Claimant,
Penegal Trim & Supply

Constantine Enterprises Inc.
Applicant

and

MIZRAHI (128 HAZELTON) INC., et al
Respondents

Court File No. CV-24-00715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at **TORONTO**

NOTICE OF MOTION

**PICCIN BOTTOS
PROFESSIONAL CORPORATION**
4370 Steeles Avenue West, Suite 201
Woodbridge, Ontario, L4L 4Y4
JONATHAN PICCIN (LSO# 68973J)
Tel: (905) 850-0155 ext. 240
Email: jpccin@piccinbottos.com

Counsel for the Respondent/Creditor
Penegal Trim & Supply

TAB 2



Outlook

RE: CV-24-00715321 (Constantine Enterprises Inc v. Mizrahi (128 Hazelton) Inc., et al: Request for 9:30am Chambers Appointment

From JUS-G-MAG-CSD-Toronto-SCJ Commercial List <MAG.CSD.To.SCJCom@ontario.ca>

Date Tue 5/26/2026 11:48 AM

To Jonathan Piccin <jpiccin@piccinbottos.com>

Cc 'Bambrough, Denise L.' <dbambrough@blg.com>; 'Merskey, Alan' <amerskey@cassels.com>; 'Jennifer Stam (she/her)' <jennifer.stam@nortonrosefulbright.com>

Hi

This matter has been assigned for a hearing before Justice Cavanagh on

June 11, /26 at 930 AM for 15 min via zoom

Kindest regards

Mannie

Ms. Mannie Maneli

Assistant Trial Coordinator

Commercial, Estates, Civil, Trial Scheduling Office

Very Important : Please be advised that as of October 14, 2025, all request and confirmation forms must be submitted via the new Ontario Court Public Portal (OCP), found at <https://courts.ontario.ca/>. The OCP platform has been launched as part of the Courts Digital Transformation initiative.

If an urgent hearing request is sought, the form must be submitted through OCP and flagged as time sensitive, and parties must send an email to the trial coordination office alerting staff of the request. You will select this option only if you are submitting documents for a hearing or deadline that is three or fewer business days away, including if you need to meet a timeline for a step in the proceeding established by legislation, court rules, court practice or a court order that is three business days or fewer away. Documents submitted for a hearing or deadline that is four or more business days away are not considered time-sensitive.

For further information, please consult the updated Toronto Regional Practice Direction effective October 14, 2025 at the following web address:

https://www.ontariocourts.ca/scj/practice_directions/consolidated-practice-direction-toronto-region/.

Location or Zoom details are always located on your case center account

Please note that is moving counsel office responsibility to invite all required counsel to Case center on particular file for upcoming hearing.

Self Represented Litigants will now have the ability to Invite other people to their case.

Lawyers will now have the permission to remove themselves from the case.

Please note that the Case center are created 5 days before the hearing date and counsel required to upload the material also 5 days before the hearing date (unless the hearing scheduled on urgent basis).

For the hearings that scheduled under request forms please upload that request form into Case center along with required material for the hearing

Those matters are allotted a **max of 15 minutes in length**. The moving party will be required to upload their request form, a 2 page Aide Memoire and a participant sheet (in word format) to Case center

Please note for filing questions Re JSO portal please address to :

Toronto.Commercial.Filings@ontario.ca for **commercial list matters**

From: Jonathan Piccin <jpiccin@piccinbottos.com>

Sent: May 25, 2026 12:27 PM

To: JUS-G-MAG-CSD-Toronto-SCJ Commercial List <MAG.CSD.To.SCJCom@ontario.ca>

Cc: 'Bambrough, Denise L.' <dbambrough@blg.com>; 'Merskey, Alan' <amerskey@cassels.com>; 'Jennifer Stam (she/her)' <jennifer.stam@nortonrosefulbright.com>

Subject: Re: CV-24-00715321 (Constantine Enterprises Inc v. Mizrahi (128 Hazelton) Inc., et al: Request for 9:30am Chambers Appointment

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Hello,

Thank you for providing the date.

I have attached my revised Request Form, with the June 11th date selected.

I have cc'd opposing counsel, but note that the relief being sought is on consent.

I thank you for your continued assistance.



Jonathan Piccin (LSO# 68973J)
4370 Steeles Ave. West, Suite 201
Woodbridge, Ontario, L4L 4Y4
Tel: 905-850-0155 ext. 240
Fax: 905-850-0498

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From: JUS-G-MAG-CSD-Toronto-SCJ Commercial List <MAG.CSD.To.SCJCom@ontario.ca>

Sent: Monday, May 25, 2026 12:20 PM

To: Jonathan Piccin <jpiccin@piccinbottos.com>

Cc: 'Bambrough, Denise L.' <dbambrough@blg.com>; 'Merskey, Alan' <amerskey@cassels.com>; 'Jennifer Stam (she/her)' <jennifer.stam@nortonrosefulbright.com>

Subject: RE: CV-24-00715321 (Constantine Enterprises Inc v. Mizrahi (128 Hazelton) Inc., et al: Request for 9:30am Chambers Appointment

Hi

Next available dates before Justice Cavanagh before June 12

June 11, for 15 min

Please email a request form to secure the date.

Follow instructions per below.

Subject line of the e-mail with attached request form must have short title of proceedings and file # or stating new matter if no file # issued yet.

Request form must be copied via e-mail to opposing counsel/parties.

Request form must indicate the relief or purpose for court appearance and amount of time.

Request form must indicate the material that will be provided for that court appearance and that material must be uploaded to Case center ahead of the hearing date.

Request form must indicate if matter seized, or case managed by the specific judge or there is perhaps a judicial conflict .

Request form also must be uploaded to Case center along with the participant sheet (in Word format) .

Please note that we are not allowed to book contested hearings for one hour , if matter contested counsel must proceed for scheduling , providing request form for 9:30am .

For 9:30am zoom appearance is allotted a **max of 15 minutes in length**. The moving party will be required to upload their request form, a 2-page Aide Memoire and a participant sheet (in word format) to Case center.

Very Important : Please be advised that as of October 14, 2025, all request and confirmation forms must be submitted via the new Ontario Court Public Portal (OCP), found at <https://courts.ontario.ca/>. The OCP platform has been launched as part of the Courts Digital Transformation initiative.

If an urgent hearing request is sought, the form must be submitted through OCP and flagged as time sensitive, and parties must send an email to the trial coordination office alerting staff of the request. You will select this option only if you are submitting documents for a hearing or deadline that is three or fewer business days away, including if you need to meet a timeline for a step in the proceeding established by legislation, court rules, court practice or a court order that is three business days or fewer away. Documents submitted for a hearing or deadline that is four or more business days away are not considered time-sensitive.

For further information, please consult the updated Toronto Regional Practice Direction effective October 14, 2025 at the following web address:

https://www.ontariocourts.ca/scj/practice_directions/consolidated-practice-direction-toronto-region/.

Best

Mannie

Ms. Mannie Maneli
Assistant Trial Coordinator
Commercial, Estates, Civil, Trial Scheduling Office

REMINDER:

Kindly, continue to reply/ respond/communicate on the original email chain.

It helps us assist you better

From: Jonathan Piccin <jp Piccin@piccinbottos.com>

Sent: May 25, 2026 11:05 AM

To: JUS-G-MAG-CSD-Toronto-SCJ Commercial List <MAG.CSD.To.SCJCom@ontario.ca>

Cc: Bambrough, Denise L. <dbambrough@blg.com>; Merskey, Alan <amerskey@cassels.com>; Jennifer Stam (she/her) <jennifer.stam@nortonrosefulbright.com>

Subject: CV-24-00715321 (Constantine Enterprises Inc v. Mizrahi (128 Hazelton) Inc., et al: Request for 9:30am Chambers Appointment

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Dear Sir/Madam,

I am counsel for the Applicant, Penegal Trim & Supply Ltd., which is a party effected by the Stay of Proceedings in the above-noted Commercial List matter.

My client is seeking an Order, lifting the stay of proceedings, so that it may comply with Section 37 of the Construction Act.

I have the consent of all parties to the above-noted proceedings, namely:

Constantine Enterprises Inc.

The Receiver (KSV Restructuring) - on behalf of the bankrupt, Mizrahi (128 Hazelton) Inc.

Aviva Insurance Company of Canada

I am attaching my Request for a 9:30am Chambers Appointment, which is Urgent, and on Consent.

I believe that Justice Cavanaugh may be seized of these proceedings, but I am not sure.

I thank you for your assistance.



Jonathan Piccin (LSO# 68973J)
4370 Steeles Ave. West, Suite 201
Woodbridge, Ontario, L4L 4Y4
Tel: 905-850-0155 ext. 240
Fax: 905-850-0498

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TAB 3

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF the *Construction Act*, R.S.O. 1990, c. C.30

THE HONOURABLE) DAY, THE _____
)
JUSTICE CAVANAGH) DAY OF _____, 2026

B E T W E E N:

PENEGAL TRIM & SUPPLY LTD.

Plaintiff

- and -

**MIZRAHI (128 HAZELTON) INC., AVIVA INSURANCE COMPANY OF CANADA, and
CONSTANTINE ENTERPRISES INC.**

Defendants

ORDER

THIS MOTION, made by the plaintiff, Penegal Trim & Supply Ltd., for an order dispensing with the requirements of Rule 48 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 and for the trial of this matter, was heard this day at 330 University Avenue, Toronto, ON, M5G 1R7.

ON READING the materials filed in respect of the motion heard, and on consent of all parties:

1. **THIS COURT ORDERS** that the requirements of Rule 48.01 and Rule 48.02 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, be and hereby are dispensed with.

2. **THIS COURT ORDERS** that there be a trial of this action and that the Registrar shall place this action on the appropriate trial list, pursuant to Rule 48.05(1) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, at the request of any party to this action

3. **THIS COURT ORDERS** that this Order constitutes an order for the trial of an action in which the lien of the plaintiff, Penegal Trim & Supply Ltd., may be enforced, and that section 37(1) of the *Construction Act*, R.S.O. 1990, c. C.30 is hereby deemed to be complied with.

4. **THIS COURT ORDERS** that, but for the actions in paragraphs 1-3 herein, no further steps will be taken without a further Order or the consent of the Receiver.

5. **THIS COURT ORDERS** that there be no order for costs of this consent motion.

Date of issuance

PENEGAL TRIM & SUPPLY LTD.
Plaintiff

and

MIZRAHI (128 HAZELTON) INC., et al
Defendants

Court File No. CV-24-00722234-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

In a proceeding under the Construction Lien Act (and/or the
Construction Act), R.S.O. 1990 (c. C30)

Proceeding commenced at **TORONTO**

ORDER

**PICCIN BOTTOS
PROFESSIONAL CORPORATION**
4370 Steeles Avenue West, Suite 201
Woodbridge, Ontario, L4L 4Y4

JONATHAN PICCIN (LSO# 68973J)
Tel: (905) 850-0155 ext. 240
Email: jpccin@piccimbottos.com

Counsel for the Plaintiff/Lien Claimant,
Penegal Trim & Supply

Constantine Enterprises Inc..
Applicant

and

MIZRAHI (128 HAZELTON) INC., et al
Respondents

Court File No. CV-24-00715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at **TORONTO**

MOTION RECORD

**PICCIN BOTTOS
PROFESSIONAL CORPORATION**

4370 Steeles Avenue West, Suite 201
Woodbridge, Ontario, L4L 4Y4

JONATHAN PICCIN (LSO# 68973J)

Tel: (905) 850-0155 ext. 240

Email: jpccin@piccinbottos.com

Counsel for the Respondent/Creditor,
Penegal Trim & Supply