



Court File No. CV-25-00738703-00CL

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

THE HONOURABLE MADAM

)

TUESDAY, THE 9TH

JUSTICE J. DIETRICH

)

DAY OF SEPTEMBER, 2025

)

B E T W E E N :

CERRUTI INVESTMENTS INC.

Applicant

- and -

2616766 ONTARIO LIMITED

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, AND
UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS
AMENDED**

CONSTRUCTION LIEN CLAIMS PROCEDURE ORDER

THIS MOTION, made by KSV Restructuring Inc. in its capacity as Court-appointed receiver and manager (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of 2616766 Ontario Limited (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, for an order, *inter alia*, approving a procedure for the identification and resolution of the Construction Lien Claims (as defined herein), was heard this day by videoconference.

ON READING the Notice of Motion of the Receiver dated September 3, 2025, the First Report of the Receiver dated September 3, 2025 (the “**First Report**”), and on hearing the submissions of counsel for the Receiver and the other parties that were present as reflected on the participant information form, no one appearing for any other party although duly served,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

2. **THIS COURT ORDERS** that all terms not otherwise defined herein shall have the meaning ascribed thereto in the Order (Appointing Receiver) of this Court dated April 17, 2025 (the “**Receivership Order**”).

3. **THIS COURT ORDERS** that, for the purposes of this Order, the following terms shall have the following meanings:

- (a) “**Claims Bar Date**” means 5:00 p.m. (Toronto time) on October 9, 2025.
- (b) “**Notice of Dispute**” means a notice delivered to the Receiver by a Construction Lien Creditor disputing a Notice of Revision or Disallowance, which notice shall be substantially in the form attached hereto as Schedule “B” and shall set out the reasons for the dispute.
- (c) “**Construction Lien Claim**” means a claim for a lien against the Property (including the Real Property) pursuant to the *Construction Act* (Ontario) relating

to the supply of labour, services or materials to an improvement with respect to the Real Property on or prior to April 17, 2025, including any claim against the holdback required to be maintained pursuant to Part IV of the *Construction Act* (Ontario).

- (d) “**Construction Lien Creditor**” means a Person asserting a Construction Lien Claim.
- (e) “**Person**” means any individual, firm, corporation, governmental body or agency, or other entity having notice of this Order.
- (f) “**Proof of Claim**” means a proof of claim to be completed and filed by a Construction Lien Creditor, which shall be substantially in the form attached hereto as Schedule “A” and include such items as are prescribed therein.
- (g) “**Proven Claim**” means the validity, amount and status of any Construction Lien Creditor’s Construction Lien Claim as finally determined in accordance with this Order.
- (h) “**Provincial Lien Legislation**” means the *Construction Act*, R.S.O. 1990, c. C.30, as amended.
- (i) “**Real Property**” means the real property municipally known as 6500 Cantelon Drive, Windsor, Ontario and legally identified as all of PIN 01379-0439 (LT) being PT BLKS D, K, X PL 1644 & PT LTS 118, 119, 120 CON 2 SANDWICH EAST PTS 1, 2, 7, 8, 29, 30 12R19150 SAVE & EXCEPT PART 1 PL

12R25975; S/T EASE LT50141 ON PTS 7, 8, 29 12R19150, 'AMENDED APR
29, 2003-AMB', CITY OF WINDSOR.

PROOF OF CLAIM

4. **THIS COURT ORDERS** that any Person wishing to assert a Construction Lien Claim shall file with the Receiver a Proof of Claim by the Claims Bar Date in accordance with the terms of this Order.

5. **THIS COURT ORDERS** that all Proofs of Claim, together with supporting documentation, must be filed with the Receiver by prepaid ordinary mail, courier, personal delivery or electronic or digital transmission, so that such Proof of Claim is received by the Receiver by no later than the Claims Bar Date.

6. **THIS COURT ORDERS** that any Person who does not file a Proof of Claim, together with supporting documentation, by the Claims Bar Date:

- (a) shall be and is hereby forever barred from asserting or enforcing a Construction Lien Claim against the Property (including the Real Property) and the Debtor; and
- (b) shall not be entitled to receive any distributions in respect of a Construction Lien Claim.

7. **THIS COURT ORDERS** that any requests for information to the Receiver, Debtor or other interested parties pursuant to the Provincial Lien Legislation, including any outstanding requests, are hereby stayed pursuant to the terms of this Order.

8. **THIS COURT ORDERS** that the Receiver shall provide copies of all Proofs of Claim filed, including any amendments or revisions thereto, and the related documents attached thereto or submitted therewith to any Construction Lien Creditor or to any mortgagee of the Real Property upon written request.

REVIEW AND DETERMINATION OF CONSTRUCTION LIEN CLAIMS

9. **THIS COURT ORDERS** that the Receiver shall review all Proofs of Claim and supporting documentation filed on or before the Claims Bar Date and may, subject to paragraph 16 hereof, accept, settle, revise or disallow (in whole or in part) the validity, amount and/or status of a Construction Lien Claim set out in any Proof of Claim at such time as the Receiver considers appropriate in its sole and absolute discretion. At any time, the Receiver may request additional information or documentation with respect to any Construction Lien Claim, and may request that the Construction Lien Creditor file a revised Proof of Claim. The Receiver shall be at liberty to engage and consult with such Persons, including, without limitation, engineers, cost consultants, quantity surveyors or other advisors, experts or consultants or mortgagees as it shall consider necessary or appropriate in connection with its review and determination of the Proofs of Claim and supporting documentation.

10. **THIS COURT ORDERS** that if the Receiver determines to revise or disallow a Proof of Claim, then the Receiver shall notify the applicable Construction Lien Creditor of such revision or disallowance and the basis for same in writing (a “**Notice of Revision or Disallowance**”).

11. **THIS COURT ORDERS** that the Receiver may, subject to paragraph 16 hereof, attempt to resolve the validity, amount and/or status of any Construction Lien Claim with the

Construction Lien Creditor on a consensual basis prior to or after accepting, revising or disallowing such Construction Lien Claim.

12. **THIS COURT ORDERS** that where a Proof of Claim has been revised or disallowed (in whole or in part) by a Notice of Revision or Disallowance, the revised or disallowed portion of that Construction Lien Claim shall not establish a Proven Claim unless the Construction Lien Creditor has disputed the revision or disallowance in accordance with this Order, and proven the revised or disallowed Construction Lien Claim (or portion thereof) in accordance with this Order.

NOTICES OF DISPUTE

13. **THIS COURT ORDERS** that if a Construction Lien Creditor disputes a Notice of Revision or Disallowance received by it (in whole or in part) and intends to contest the Notice of Revision or Disallowance, then such Construction Lien Creditor shall deliver a Notice of Dispute by prepaid ordinary mail, courier, personal delivery or electronic or digital transmission so that such Notice of Dispute is received by the Receiver by no later than 5:00 p.m. (Toronto time) on the day which is fourteen (14) days after delivery of the Notice of Revision or Disallowance or such later date as the Receiver may agree in writing.

14. **THIS COURT ORDERS** that if a Construction Lien Creditor who receives a Notice of Revision or Disallowance fails to file a Notice of Dispute with the Receiver within the time limit required by paragraph 13 of this Order, then the validity, amount and status of such Construction Lien Creditor's Construction Lien Claim shall be deemed to be as set out in the Notice of Revision or Disallowance and such amount and status, if any, shall constitute such Construction Lien Creditor's Proven Claim.

RESOLUTION OF DISPUTED CONSTRUCTION LIEN CLAIMS

15. **THIS COURT ORDERS** that as soon as practicable after the delivery of the Notice of Dispute to the Receiver, the Receiver may:

- (a) attempt to resolve the validity, status and amount of the Construction Lien Claim with the Construction Lien Creditor on a consensual basis; and/or
- (b) schedule an appointment with the Court for the purpose of scheduling a motion to have the validity, status and/or amount of the Construction Lien Claim determined by the Court.

16. **THIS COURT ORDERS** that the Receiver shall not accept or settle a Construction Lien Claim on the basis of it having any priority over any mortgage registered on title to the Real Property except with the prior written consent of the relevant mortgagee(s) or further order of the Court. Upon request by a mortgagee, the Receiver is authorized to provide the relevant mortgagee, at the cost of the requesting mortgagee, with all relevant information in the Receiver's possession relating to any Construction Lien Claims that assert or could have priority over such mortgagee's mortgage on the Property.

17. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order, the Receiver may make a motion to the Court for a determination of the validity, status and/or amount of a Construction Lien Claim or any other issue or matter with respect to any Construction Lien Claims at any time, whether or not a Notice of Revision or Disallowance has been sent by the Receiver, on notice to the applicable Construction Lien Creditor(s) and the service list. For greater certainty, any mortgagee(s) in respect of whom priority is being claimed

over shall have standing in any motion relating to Construction Lien Claims that assert or could have priority over such mortgagee's mortgage on the Property.

18. **THIS COURT ORDERS** that the Receiver may, where it is satisfied that a Construction Lien Claimant has provided adequate notice of a Construction Lien Claim, waive strict compliance with the requirements of this Order as to completion and execution of Proofs of Claim.

19. **THIS COURT ORDERS** that the Receiver shall be entitled to assert and enforce any and all rights, remedies and defences in respect of a Construction Lien Claim of any Construction Lien Creditor which may be available to the Receiver of the Debtor under the Provincial Lien Legislation or otherwise.

NOTICE OF TRANSFEREES

20. **THIS COURT ORDERS** that the Receiver shall not be obligated to give notice to or otherwise deal with a transferee or assignee of a Construction Lien Claim as the Construction Lien Creditor in respect thereof unless:

(a) actual written notice of the transfer or assignment, together with satisfactory evidence of a valid transfer or assignment of the Construction Lien Claim, has been received by the Receiver; and

(b) the Receiver has acknowledged in writing such transfer or assignment,

and thereafter such transferee or assignee shall for the purposes hereof constitute the "Construction Lien Creditor" in respect of such Construction Lien Claim. Any such transferee or

assignee of a Construction Lien Claim, and such Construction Lien Claim, shall be bound by any notices given or steps taken in respect of such Construction Lien Claim in accordance with this Order prior to the written acknowledgement by the Receiver of such transfer or assignment.

21. **THIS COURT ORDERS** that the Receiver is under no obligation to give notice of a valid transfer or assignment made pursuant to this Order to any Person other than the Construction Lien Creditor holding the Construction Lien Claim and shall, without limitation, have no obligation to give notice to any Person holding a security interest, lien, or charge in, or a pledge or assignment by way of security in, a Construction Lien Claim.

22. **THIS COURT ORDERS** that the transferee or assignee of any Construction Lien Claim:

- (a) shall take the Construction Lien Claim subject to the rights and obligations of the transferor/assignor of the Construction Lien Claim, and subject to the rights of the Debtor against any such transferor or assignor, including any rights of set-off which the Debtor had against such transferor or assignor; and
- (b) cannot use any transferred or assigned Construction Lien Claim to reduce any amount owing by the transferee or assignee to the Debtor, whether by way of set-off, application, merger, consolidation or otherwise.

PROTECTIONS FOR THE RECEIVER

23. **THIS COURT ORDERS** that the Receiver, in addition to its prescribed rights, duties, responsibilities and obligations under: (i) the BIA, (ii) the Receivership Order, and/or (iii) any

other Order of the Court, is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Order or incidental thereto.

24. **THIS COURT ORDERS** that in carrying out the terms of this Order:

- (a) the Receiver shall have all the protections given to it by the BIA, the Receivership Order, any other Order of this Court, and as an officer of this Court;
- (b) the Receiver shall incur no liability or obligation as a result of the carrying out of the provisions of this Order save and except for any gross negligence or willful misconduct on its part;
- (c) the Receiver shall be entitled to rely on the books and records and any information provided by the Debtor as well as documentation and information provided by others, including information and documentation provided by Construction Lien Creditors pursuant to this Order or by mortgagees, which the Receiver believes to be accurate and true, without independent investigation or verification; and
- (d) the Receiver shall not be liable for any claims or damages resulting from any errors or omissions in such books and records or information.

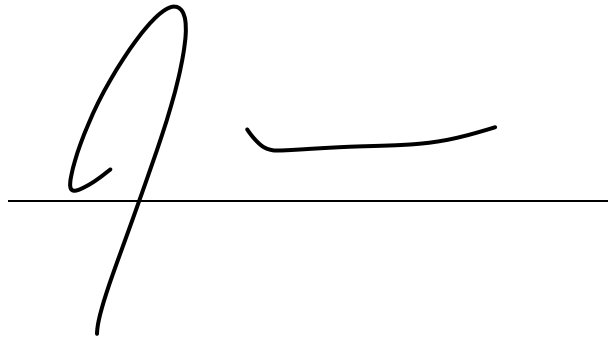
DIRECTIONS

25. **THIS COURT ORDERS** that the Receiver may, at any time, and with such notice as this Court may require, seek directions from this Court with respect to this Order.

MISCELLANEOUS

26. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any other foreign jurisdiction to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

27. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Toronto Time) on the date of this Order and are enforceable without the need for entry and filing.

A handwritten signature, consisting of a large loop followed by a horizontal stroke, is written over a solid horizontal line.

SCHEDULE “A”

Court File No. CV-25-00738703-00CL

CERRUTI INVESTMENTS INC.

Applicant

- and -

2616766 ONTARIO LIMITED

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, AND
UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS
AMENDED**

**PROOF OF CLAIM
FOR CONSTRUCTION LIEN CLAIMS¹**

PARTICULARS OF CONSTRUCTION LIEN CREDITOR:

1. Full Legal Name of Construction Lien Creditor: _____
2. Full Mailing Address of the Construction Lien Creditor (the original Construction Lien Creditor and not any assignee):

3. Telephone number: _____
4. E-mail address: _____
5. Attention (Contact Person): _____
6. Has the Construction Lien Claim been transferred or assigned by the Construction Lien Creditor to another person/company [check (✓) one]?

Yes: ☐ No: ☐

¹ Capitalized terms used herein and not otherwise defined shall have the meaning given to thereto in the Construction Lien Claims Procedure Order of the Ontario Superior Court of Justice (Commercial List) dated September 9, 2025.

A. PARTICULARS OF ASSIGNEE (IF ANSWER TO QUESTION 6 IS YES):

7. Full Legal Name of Assignee: _____

(If Construction Lien Claim has been assigned, insert full legal name of assignee of Construction Lien Claim.

8. Full Mailing Address of Assignee:

9. Telephone number of Assignee: _____

10. E-mail address of Assignee: _____

11. Attention (Contact Person): _____

B. PROOF OF CONSTRUCTION LIEN CLAIM:

I, _____
[name of Construction Lien Creditor or representative of the Construction Lien Creditor],

of _____ do hereby certify that:

[City and Province]

(a) I [check (✓) one]

☐ am the Construction Lien Creditor of _____;

OR

☐ am the _____ (state position or title) of the
Construction Lien Creditor

;

(b) I have knowledge of all the circumstances connected with and described in the Construction Lien Claim referred to below;

(c) the Construction Lien Creditor has a Construction Lien Claim (inclusive of HST) as follows:

TOTAL CONSTRUCTION LIEN CLAIM:

CDN\$ _____

[Note: This amount should only include Construction Lien Claims and not any other claims.]

To the extent you have issued a statement of claim or filed any other action in respect of a Construction Lien Claim to date, please check (✓) this box ☐ and attach copies of supporting documentation in respect of such statement of claim or other action to this Proof of Claim.

C. EVIDENCE OF LIEN RIGHTS AND PARTICULARS OF CLAIM:

In order to file your Proof of Claim, evidence of the basis for making a Construction Lien Claim is required. Provide all particulars of the Construction Lien Claim and supporting documentation, including any document(s) or information you wish to bring to the Receiver's attention with respect to the Construction Lien Claim. At a minimum, you must provide the following:

- (1) A description of the labour, services and/or materials you provided to the Debtor (or company you had contract with if different than the Debtor) and the particulars of the work you performed at the real property municipally known as 6500 Cantelon Drive, Windsor, Ontario (the "**Real Property**"), including which specific project(s) (the "**Project**") you supplied labour, materials or services to;
- (2) Date of first and last supply of material in relation to the Construction Lien Claim;
- (3) An accounting of the state of accounts (including the amount being claimed) as between the Construction Lien Creditor and the Debtor on the Project, including: (i) a list of all invoices rendered on the Project and the date of each invoice; (ii) an indication of which invoices have been paid and any that remain unpaid; and (iii) copies of all invoices;
- (4) Any written agreements or contracts between the Construction Lien Creditor and the Debtor;
- (5) Any change orders, whether approved or unapproved;
- (6) Any payment certificates, completion certificates or certificates of substantial completion;

- (7) The Construction Lien Creditor’s ledger demonstrating the relevant amounts paid to date in relation to the Construction Lien Creditor’s work on the Project and amount of retained holdback; and
- (8) The total contract price.

D. CLAIM OF PRIORITY OVER REGISTERED MORTGAGES

The table below sets forth the mortgages registered against the Real Property. To the extent you claim priority over any of the registered mortgages on the Real Property (in whole or in part), please check (✓) this box ☐ and include a statement below (attaching additional sheets as necessary), indicating:

1. which mortgage(s) you claim priority over; and
2. in respect of each mortgage over which you claim priority, whether you claim priority over such mortgage in whole or in part and the basis for your claim of priority, including the provision(s) of the *Construction Act* (Ontario) you rely on and a statement setting forth your position on why your Construction Lien Claim is entitled to priority over each such mortgage.

The details of the registered mortgages on the Real Property are specified below:

Date of Registration	Registration Number	Name of Mortgagee
2021 03 16	CE996631	Cerruti Investments Inc.
2023 05 16	CE1134394	2763161 Ontario Limited
2023 09 07	CE1150770	2763161 Ontario Limited
2024 06 05	CE1184095	Fulger Transport Inc.

Date of Registration	Registration Number	Name of Mortgagee
2024 09 11	CE1197716	Tatro Horizons Ltd.
2025 03 27	CE1222890	Joe's Cement Work (2019) Inc.

THIS PROOF OF CLAIM MUST BE RECEIVED BY THE RECEIVER BY NO LATER THAN 5:00 P.M. (TORONTO TIME) ON OCTOBER 9, 2025 ("CLAIMS BAR DATE") BY PREPAID ORDINARY MAIL, COURIER, PERSONAL DELIVERY OR ELECTRONIC OR DIGITAL TRANSMISSION AT THE FOLLOWING ADDRESS:

KSV Restructuring Inc., in its capacity as Receiver
220 Bay St., Suite 1300
Toronto, ON M5J 2W4

Attention: Martin Kosic
E-mail: mkosic@ksvadvisory.com

With an e-mail copy to:

Goodmans LLP
Barristers & Solicitors
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7
Attention: Christopher Armstrong and Josh Sloan
Email: carmstrong@goodmans.ca and jsloan@goodmans.ca

Dated at _____ this _____ day of _____, 2025.

Signature of the Construction Lien Creditor or
authorized representative of the Construction
Lien Creditor

SCHEDULE “B”

Court File No. CV-25-00738703-00CL

CERRUTI INVESTMENTS INC.

Applicant

- and -

2616766 ONTARIO LIMITED

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, AND
UNDER SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS
AMENDED**

**NOTICE OF DISPUTE
FOR CONSTRUCTION LIEN CLAIMS**

Name of Construction Lien Creditor: _____

We hereby give you notice of our intention to dispute the Notice of Revision or Disallowance dated _____ issued in respect of our Construction Lien Claim.

Reasons for Dispute (attach extra sheets and copies of all supporting documentation if necessary):

(Signature of the Construction Lien Creditor or authorized
representative of the Construction Lien Creditor
completing this Notice of Dispute)

(Please print name)

Telephone Number:

Email address:

Full Mailing Address:

THIS FORM IS TO BE RETURNED BY PREPAID ORDINARY MAIL, COURIER, PERSONAL DELIVERY OR ELECTRONIC OR DIGITAL TRANSMISSION AND MUST BE RECEIVED NO LATER THAN 5:00 P.M. (TORONTO TIME) ON THE DAY WHICH IS FOURTEEN (14) CALENDAR DAYS AFTER THE NOTICE OF REVISION OR DISALLOWANCE IS DELIVERED BY THE RECEIVER TO:

KSV Restructuring Inc., in its capacity as Receiver
220 Bay St., Suite 1300
Toronto, ON M5J 2W4

Attention: Martin Kasic
E-mail: mkasic@ksvadvisory.com

With an e-mail copy to:

Goodmans LLP
Barristers & Solicitors
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Attention: Christopher Armstrong and Josh Sloan
Email: carmstrong@goodmans.ca and jsloan@goodmans.ca

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

CERRUTI INVESTMENTS INC
Applicant

-and-

2616766 ONTARIO LIMITED
Respondent

Court File No: CV-25-00738703-00CL

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

Proceeding Commenced at Toronto, Ontario

**CONSTRUCTION LIEN CLAIMS
PROCEDURE ORDER**

GOODMANS LLP

Barristers & Solicitors
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto ON M5H 2S7

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carmstrong@goodmans.ca

Josh Sloan LSO# 90581H
jsloan@goodmans.ca

Tel: 416.979.2211
Fax: 416.597.1234

Lawyers for the Receiver