



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-25-00749775-00CL

DATE: December 11, 2025

NO. ON LIST: 3

TITLE OF PROCEEDING: NATIONAL BANK OF CANADA v. DROP TECHNOLOGIES INC. et al

BEFORE: Justice J. Steele

PARTICIPANT INFORMATION

For Applicant/Plaintiff:

Name of Person Appearing	Name of Party	Contact Info
Adrienne Ho	National Bank of Canada	aho@airdberlis.com
Steven Leonard Graff	National Bank of Canada	Sgraff@airdberlis.com

For Respondent/Defendant:

Name of Person Appearing	Name of Party	Contact Info
Natalie Levine	Drop Technologies	nlevine@cassels.com

For Others, Third Party:

Name of Person Appearing	Name of Party	Contact Info
Bobby Kofman and Eli Brenner, Proposed Receiver, KSV Restructuring		Bkofman@ksvadvisory.com
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George Benchetrit, Csl for Proposed Receiver, KSV Restructuring		george@chaitons.com

ENDORSEMENT OF JUSTICE STEELE:

1. The parties attended before me on December 9, 2025. NBC had brought an application seeking the appointment of a receiver, and the proposed receiver was seeking the approval of a transaction pursuant to an approval and vesting order.
2. I declined to grant the orders on December 9, 2025, because, among other things, ResidualCo had not yet been established. The matter was adjourned to December 12, 2025. However, on December 10, 2025 the court was advised that because there had been some developments in the matter, a receiver would need to be appointed sooner. Accordingly, the court scheduled an urgent attendance for December 11, 2025.
3. I am advised that despite being advised by counsel for the Purchaser on our last attendance that the Purchaser was desirous of closing the purchase transaction on the return of the motion scheduled for December 10, 2025, it has now advised KSV and National Bank that it will not be closing the transaction. In the circumstances, and with that information in hand, I see no reason to approve a transaction that I am unequivocally told will not close. The lack of approval is without prejudice to the position that KSV, in its capacity as receiver of Drop Technologies Inc. and related companies, may take in respect of the transaction and the deposit paid by the Purchaser. That issue is not before me today and I make no ruling on it per se.
4. No one opposes the application to appoint a receiver or the requested sealing order.
5. Capitalized terms used in this endorsement that are not defined herein have the meaning set out in the applicant's factum.

Should the Court appoint KSV as receiver over the assets of Drop and Drop ULC?

6. Under s. 243(1) of the BIA and section 101 of the CJA, the court may appoint a receiver where it is "just or convenient" to do so.
7. In determining whether it is "just or convenient" to appoint a receiver, the Court must consider "all of the circumstances but in particular the nature of the property and the rights and interests of all relevant parties." *Nova Scotia v. Freure Village on Clair Creek*, 1996 CanLII 8258 (ONSC) at para. 10. Recently the court summarized the discretionary factors that the court has historically considered in determining whether to appoint a receiver: *Canadian Equipment Finance and Leasing Inc. v. The Hypoint Company Limited*, 2022 ONSC 6186, at para. 25.
8. I am satisfied that it is just or convenient in the circumstances to appoint a receiver.

9. The Debtors have defaulted and have failed to repay the Indebtedness. NBC has served the requisite notices under s. 244 of the BIA and the prescribed 10-day notice period has expired.
10. Although the appointment of a receiver is generally an extraordinary remedy, the extraordinary nature of the remedy is reduced where the applicant is merely seeking to enforce a term of an agreement that was agreed to by both parties: *Elleway Acquisitions Ltd. v. Cruise Professionals Ltd.*, 2013 ONSC 6866, at para. 27. Recently in *iSpan Systems LP*, 2023 ONSC 6912, at para. 31, Osborne J. further affirmed the principle set out in *Elleway*:

Where the rights of the secured creditor include, pursuant to the terms of its security, the right to seek the appointment of a receiver, the burden on the applicant is lessened: while the appointment of a receiver is generally an extraordinary equitable remedy, the courts do not so regard the nature of the remedy where the relevant security permits the appointment and as a result, the applicant is merely seeking to enforce a term of an agreement already made by both parties [citations omitted].
11. NBC has the contractual right to appoint a receiver. Accordingly, the appointment of a receiver is not an extraordinary measure in this case – it is merely the result of the enforcement of the contractual terms to which the Debtors have assented.
12. The Order sought is similar in all material respects to the Commercial List Model Order. Among other things, there are paragraphs added to address the requested sealing order, as well as a provision that permits KSV to retain Aird & Berlis as counsel, subject to any conflict issues. Further, paragraphs 3(r) and 4, which deal with the provision of property, including intellectual property and technology assets, have been amended to add a reference to Derrick Fung, the Debtor's principal.

Should the Court grant the requested sealing order?

13. The applicant seeks a sealing order over the Confidential Supplement to the Second Pre-Filing Report pending further court order. The Confidential Supplement contains details of the purchase price for the transaction with the Purchaser that is not proceeding, personal information of equity holders in Drop, and the names of Drop's customers. The applicant seeks temporary sealing relief in respect of the transaction terms, and permanent sealing relief in respect of the Debtors' customers names and the identities of shareholders. I am satisfied that the sealing order that is sought satisfies the test set out in *Sienna Club of Canada v. Canada (Minister of Finance)* as modified by *Sherman Estate v. Donovan*. With regard to the failed transaction terms, the Receiver intends to continue with a sale process, and therefore disclosing the prior transaction terms could negatively affect the realization of the assets. Permanent sealing of the Debtors' customers names is sought because making them public could provide a commercial advantage to

competitors. Further permanent sealing of the identities of DTI's shareholders is sought because this is personal information (it includes their personal email addresses). There is no reasonable alternative to the sealing order. No stakeholder will be materially prejudiced by the requested sealing order, which applies to only a limited amount of information.

14. The applicant is directed to provide the sealed confidential documents to the Court clerk at the filing office in an envelope with a copy of this endorsement and the signed order (with the relevant provisions highlighted) so that the confidential documents can be physically sealed. Counsel is further directed to apply, at the appropriate time, for an unsealing order, if necessary.

15. Order attached.

A handwritten signature in blue ink, appearing to be 'J. H. H.', is located in the lower right quadrant of the page. The signature is fluid and cursive, with a horizontal line extending from the end.