



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-24-00721560-00CL

DATE: January 13, 2026

NO. ON LIST: 1

TITLE OF PROCEEDING: EQUITABLE BANK v. EQUITYLINE SPV LIMITED PARTNERSHIP

BEFORE: JUSTICE KIMMEL

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

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For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info

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ENDORSEMENT OF JUSTICE KIMMEL:

[1] The court hearing time booked for today was preserved by my November 26, 2025 endorsement (at para. 9): “so that it can be used to deal with another the claim of fraud brought by another elderly mortgagor, Lyle Auton (whose counsel was in attendance in court today), in addition to claims in respect of six other possibly fraudulent mortgages that have been identified”.

[2] It was noted in the November 26, 2025 endorsement that the Receiver was in the process of determining which other title insurers may need to be on notice of any motion that it may wish to have return on January 13, 2026. The court also indicated (at para. 11 of that endorsement) that:

If there is going to be a motion on January 13, 2026 to deal with any other allegedly fraudulent mortgages, there will need to be a timetable to ensure that the interested parties are on notice and have had a chance to respond. Accordingly, counsel for the Receiver has undertaken to try to identify the potentially interested stakeholders and arrange a further scheduling conference before the holidays, to either timetable steps to ensure the participating parties are ready to proceed on January 13, 2026, or to schedule a new hearing date.

[3] The Receiver determined in December 2025 that it was not going to be in a position to proceed to deal on the merits with the Auton claim, or to deal on the merits with the claims of the six other possibly fraudulent mortgages that have been identified by the Receiver (referred to by the Receiver as the “Impugned Mortgages”). Instead, the Receiver determined that it would ask the court to consider a proposed claims adjudication protocol for dealing with the allegedly fraudulent mortgages (the “Mortgage Claim Protocol”). The Receiver requested confirmation from the court in December of 2025 to re-purpose the January 13, 2026 hearing date, which confirmation was not provided until January 5, 2026, immediately after which the Receiver served its motion for approval of its proposed Mortgage Claim Protocol.

[4] After being served, some of the title insurers requested an adjournment of the Receiver’s motion for approval of the proposed Mortgage Claim Protocol to allow them more time to consider it. The Receiver

agreed to a brief adjournment and the primary purpose of today's case conference was to put a timetable in place to allow time for the interested parties to reach a consensus on the terms of a Mortgage Claim Protocol, and to schedule the motion for its approval if consensus was not reached.

- [5] The Receiver's objective is to try to come to the court with a proposed Mortgage Claims Protocol that is acceptable to the primary stakeholders (most of whom were represented at today's case conference), namely: the Applicant (mortgagee), the mortgagors, and the title insurers.
- [6] A concern was raised about whether there are other parties to the pre-existing claims regarding the Impugned Mortgages that may have an interest and desire to participate in the adjudication of those claims, for example the mortgage brokers and the lawyers for the mortgagees and mortgagors (or their insurers). The Receiver has identified and engaged with the other title insurers since the last case conference, but notes that to the extent there may be other parties to the pre-existing claims, they would be readily identifiable by the mortgagors and possibly by the title insurers already engaged in the investigation of those claims (which pre-dated the receivership).
- [7] After some discussion, it was agreed that this would be addressed offline. The court asked counsel who appeared on this case conference to, by the end of this week, provide the Receiver with the names of those other known parties to pre-existing mortgage claims, their counsel of record and address for service if known, so that they can be served with the Receiver's motion record and can engage in the discussions about the Mortgage Claims Protocol if they wish to do so.
- [8] A further case conference has been scheduled on February 2, 2026 for 90 minutes by zoom.
- [9] The hope of the Receiver, supported by most of the other participating parties at this case conference, is that the Mortgage Claims Protocol (as amended based on engagement between now and then) can be agreed upon and presented, with appropriate authorities, for the court's consideration and (if determined appropriate) approval on February 2, 2026. If it is unopposed or on consent then the court will consider and determine whether to approve the proposed Mortgage Claims Protocol at the February 2, 2026 case conference.
- [10] If the Receiver's proposed Mortgage Claims Protocol is not either on consent or unopposed, the February 2, 2026 case conference will be used to schedule and timetable the Receiver's motion, on a relatively expedited timetable. If necessary, the Receiver may request that the court make an order on February 2, 2026 to toll limitation periods that might be otherwise expiring in respect of any of the claims involving the Impugned Mortgages. Any such request will need require evidentiary support and legal authority.

Date: January 13, 2026

Jessica Kimmel



