

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

B E T W E E N:

**KSV RESTRUCTURING INC. in its capacity as court-appointed receiver and
manager of PRODUCTIVITY MEDIA INC. and PRODUCTIVITY MEDIA INCOME
FUND I LP, and not in its personal capacity**

Plaintiff

and

MNP LLP

Defendant

**CASE CONFERENCE BRIEF OF THE RECIEVER
(Case conference – July 9, 2025)**

July 8, 2025

**Paliare Roland Rosenberg Rothstein
LLP**

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A. Overview and relief sought

1. This case conference is convened by the plaintiff, KSV Restructuring Inc., in its capacity as court-appointed receiver and manager of Productivity Media Inc. and Productivity Media Income Fund I LP (the “**Receiver**”), to set a timetable for the pleadings and discovery phase of this proceeding, in light of the defendant’s refusal to agree to any timetable to date.

2. The Receiver requests an order establishing the following timetable:

- (a) Statement of Defence delivered by August 29, 2025;
- (b) Documentary productions exchanged by October 15, 2025; and
- (c) Examinations for discovery completed by January 30, 2026.

B. Background

3. This is an auditor’s negligence case. The defendant, MNP LLP (“**MNP**”), is the former auditor of Productivity Media Income Fund I LP, one of the entities in receivership (“**Productivity Media**”).

4. Productivity Media was a film financing business. It collapsed in 2024 and it is now apparent that it was the victim of a years-long fraudulent scheme orchestrated by at least one of its founding principals.

5. Productivity Media’s assets, including the \$280 million in loans receivable recorded on Productivity Media’s balance sheet, are virtually worthless.

6. The Receiver asserts that MNP was grossly negligent in failing to detect these improprieties, and holds MNP responsible for Productivity Media's losses, seeking \$280 million in damages plus other related relief.

7. This action is a central component of the ongoing receivership. It is a central issue in the receivership and, if successful, will result in recoveries for the various stakeholders of Productivity Media, substantially all of whom have suffered losses equivalent to their investment. The receivership entities have no assets of any material value other than causes of action such as this one.

C. Correspondence with MNP to date

8. The Receiver put MNP on notice of an anticipated claim by way of letter dated March 5, 2025 and asked MNP to preserve documents.

9. On May 12, 2025, the Receiver wrote to require production of MNP's audit working papers as well as a copy of any insurance policy which may respond to the contemplated action. This request was made in reliance on the Receiver's powers under the receivership appointment order of Justice Conway dated November 19, 2024 which, in accordance with the Commercial List model order, gives the Receiver broad powers to compel documents from third parties.

10. The Statement of Claim in this action was issued on May 23, 2025 and was provided to MNP's in-house counsel on that date.

11. Thereafter, the Receiver followed up on multiple occasions respecting the production demand set out in its May 12, 2025 letter.

12. MNP retained counsel in this action on June 9, 2025. MNP has still not confirmed its position on the production demands.

D. Efforts to set a litigation timetable

13. Since June 24, 2025 the Receiver has been attempting without success to establish a timetable for the next steps in the action. On that date, the Receiver wrote to ask MNP to deliver a Statement of Defence by August 29 and documentary productions by November 14.

14. MNP has rejected the request and has declined to provide any responding position on a timetable at all despite repeated requests. In support of its position, it has cited “the size and scope of [the Receiver’s] claim and the fact that it relates to audits dating back 9 years,” as well as their expectation of bringing third party claims.

15. It is true that the amount sought in this action is significant. However, the timetable sought by the Receiver gives due consideration to this factor. Indeed, the time sought for the responding pleading (August 29) is almost three months after counsel was retained. In any event, regardless of the amount of the claim, the documents are within the control of MNP and should be easily producible on a timely basis.

16. A mid-October date for exchange of productions is appropriate and realistic. While the audits date back several years, the process of reviewing documents for production should reasonably be straightforward and expeditious. In particular, the entirety of MNP’s audit file is presumptively relevant, should be readily accessible to MNP, and there are no potential issues of privilege to consider.

17. The Receiver maintains that it was inappropriate for MNP to refuse to turn over its working papers in the face of a valid demand under the receivership order. However, the Receiver is reluctantly prepared to wait for affidavits of documents to be exchanged, recognizing that the working papers will likely comprise a significant majority of MNP's productions.

18. To the extent that MNP chooses to bring third-party claims, the timetable can be revisited as appropriate at that point, recognizing that the Receiver's proposed timetable already builds in sufficient time between MNP's Statement of Defence and the exchange of productions.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 8th day of July, 2025.



Jeff Larry/Dan Rosenbluth

Lawyers for the Plaintiff

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Court File No. CV-25-00743761-00CL

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