

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

CANADIAN WESTERN BANK

Applicant

and

2722959 ONTARIO LTD. and 2156775 ONTARIO LIMITED

Respondents

**MOTION RECORD
(Motion returnable March 15, 2023)**

DATED: February 17, 2023

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Canadian Western Bank

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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

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2722959 ONTARIO LTD. and 2156775 ONTARIO LIMITED

Respondents

NOTICE OF MOTION

THE RESPONDENT, 2156775 ONTARIO LIMITED, will make a motion before the Honourable Justice Osborne on March 15, 2023 at 10:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- in writing under subrule 37.12.1(1) because it is (insert one of on consent, unopposed or made without notice);
- in writing as an opposed motion under subrule 37.12.1(4);
- in person
- By telephone conference
- By video conference

THE MOTION IS FOR an Order:

- (a) Lifting the stay of proceedings in the following actions;
 - (i) Court File No. CV-20-00002978-0000 – 2156776 Ontario Inc. cob D’Angelo Brands v. The Regional Municipality of Peel;
 - (ii) Court File No. CV-21-00003036-0000 – 2156775 Ontario Inc. cob as

D'Angelo Brands v. The Regional Municipality of Peel et al

- (iii) Court File No. CV-21-00003482-0000 – 2156775 Ontario Inc. cob as D'Angelo Brands v. The Regional Municipality of Peel, Nando Iannicca, Elaine Gilliland, Steven Fantin, Bill Ford and Khawer Rauf.
- (b) Such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

- (a) 2156775 Ontario Limited carrying on business as D'Angelo Brands commenced three actions. They are as follows:
 - (i) Court File No. CV-20-00002978-0000 – 2156776 Ontario Inc. cob D'Angelo Brands v. The Regional Municipality of Peel – Notice of Action issued August 19, 2020 in the amount of \$3,000,000.00 for damages for breach of contract, negligence, bad faith and breach of statutory duty. A Statement of Defence was delivered on October 19, 2020 and a Reply was delivered on October 28, 2020. The Plaintiff served its Affidavit of Documents on November 20, 2022. The Defendant served its updated Affidavit of Documents on May 20, 2022;
 - (ii) Court File No. CV-21-00003036-0000 – 2156775 Ontario Inc. cob as D'Angelo Brands v. The Regional Municipality of Peel and The City of Mississauga – Statement of Claim issued August 23, 2021 for interlocutory relief and that the tax lien filed by the City of Mississauga be discharged and that the plaintiff's security take priority. A Statement of Defence has been delivered by Mississauga dated September 23, 2021. A Statement of Defence has been delivered by Peel dated October 1, 2021. A Reply to the Statement of Defence of Peel has been delivered dated October 12, 2021. A Reply to the Statement of Defence of Mississauga has been delivered dated November 18, 2021. The pleadings have been completed;
 - (iii) Court File No. CV-00003482-0000 – 2156775 Ontario Inc. cob as D'Angelo Brands v. The Regional Municipality of Peel, Nando Iannicca, Elaine Gilliland, Steven Fantin, Bill Ford and Khawer Rauf – Statement of Claim

issued September 28, 2021 claiming damages in the amount of \$20,000,000.00 for breach of contract, negligence, bad faith, dishonest conduct and breach of statutory duty. A Statement of Defence has been delivered on December 15, 2021 and a Reply to the Statement of Defence has been delivered dated December 21, 2021.

- (b) 2156775 Ontario Inc. has alleged serious issues against the Defendants, The Regional Municipality of Peel, The City of Mississauga, Nando Iannicca, Elaine Gilliland, Steven Fantin, Bill Ford and Khawer Rauf, as set forth in the Statements of Claim;
- (c) The Receiver will not oppose the lifting of the stay in all three actions (i) provided that the Order sought and obtained is on certain terms; and (ii) that the Order sought is on such terms;
- (d) The City of Mississauga and the Region of Peel have brought separate motions for security for costs as against 2156775 Ontario Inc cob D'Angelo Brands. Both motions are returnable February 23, 2023;
- (e) These proceedings are for the benefit of 2156775 Ontario Inc. No proceedings are brought against the Receiver. There are sound reasons for lifting the stay in all the circumstances as elaborated and set forth in the three Statements of Claim.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

- (a) The Affidavit of Frank D'Angelo sworn February 13, 2023 and to be filed on a motion returnable to the court on a date to be fixed by the court;
- (b) Such further and other documentation as counsel may advise and this Honourable Court permit.

DATED: February 17, 2023

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Canadian Western Bank

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Respondent

**SERVICE LIST
Last updated February 17, 2023**

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TAB 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
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B E T W E E N:

CANADIAN WESTERN BANK

Applicant

and

2722959 ONTARIO LTD. and 2156775 ONTARIO LIMITED

Respondents

AFFIDAVIT OF FRANK D'ANGELO

I, FRANK D'ANGELO, of the Town of Kleinburg, in the Province of Ontario,

MAKE OATH AND SAY AS FOLLOWS:

1. I was the President and Chief Executive Officer of 2156775 Ontario Limited carrying on business as D'Angelo Brands ("215"). I have been personally involved in all dealings with the Regional Municipality of Peel and with the City of Mississauga with respect to the issues raised in this Statement of Claim and as such, have knowledge of the matters hereinafter deposed to.
2. The Canadian Western Bank brought an application to this court for the appointment of a Receiver. Annexed hereto and marked as **Exhibit "A"** to this my affidavit is a copy of the Order of the Honourable Justice Osborne.
3. Paragraph 3 of the said Order provides:

THIS COURT ORDERS that pursuant to section 101 of the CJA, MNP is hereby appointed as Receiver, without security, of all of the assets, undertakings and properties of 272 and 215 acquired for, or used in relation to a business carried on by 272 and 215, including all proceeds thereof, including

property held by 272 and 215 in trust for any third party (collectively, the “**Property**”).

4. I am informed by my lawyer, Leo Klug and do verily believe that (i) based on correspondence between counsel, the Receiver will not oppose the lifting of the stay in all three actions provided that the Order sought and obtained is on certain terms; and (ii) that the Order sought is on such terms;

HISTORY

5. 2156775 Ontario Limited carrying on business as D’Angelo Brands commenced three actions. They are as follows:

- (i) Court File No. CV-20-00002978-0000 – 2156776 Ontario Inc. cob D’Angelo Brands v. The Regional Municipality of Peel – Notice of Action issued August 19, 2020 in the amount of \$3,000,000.00 for damages for breach of contract, negligence, bad faith and breach of statutory duty. A Statement of Defence was delivered on October 19, 2020 and a Reply was delivered on October 28, 2020. The Plaintiff served its Affidavit of Documents on November 20, 2022. The Defendant served its updated Affidavit of Documents on May 20, 2022. Annexed hereto and marked as **Exhibit “B”** to this my affidavit is a copy of the Statement of Claim;
- (ii) Court File No. CV-21-00003036-0000 – 2156775 Ontario Inc. cob as D’Angelo Brands v. The Regional Municipality of Peel and The City of Mississauga – Statement of Claim issued August 23, 2021 for interlocutory relief and that the tax lien filed by the City of Mississauga be discharged and that the plaintiff’s security take priority. A Statement of Defence has been delivered by Mississauga dated September 23, 2021. A Statement of Defence has been delivered by Peel dated October 1, 2021. A Reply to the Statement of Defence of Peel has been delivered dated October 12, 2021. A Reply to the Statement of Defence of Mississauga has been delivered

dated November 18, 2021. The pleadings have been completed. Annexed hereto and marked as **Exhibit "C"** to this my affidavit is a copy of the Statement of Claim;

- (iii) Court File No. CV-00003482-0000 – 2156775 Ontario Inc. cob as D’Dangelo Brands v. The Regional Municipality of Peel, Nando Iannicca, Elaine Gilliland, Steven Fantin, Bill Ford and Khawer Rauf – Statement of Claim issued September 28, 2021 claiming damages in the amount of \$20,000,000.00 for breach of contract, negligence, bad faith, dishonest conduct and breach of statutory duty. A Statement of Defence has been delivered on December 15, 2021 and a Reply to the Statement of Defence has been delivered dated December 21, 2021. Annexed hereto and marked as **Exhibit "D"** to this my affidavit is a copy of the Statement of Claim:

6. I am advised by my lawyer, Leo Klug and do verily believe that he has asked counsel for the Defendants, Peel, Mississauga and the individuals to consent to an order for trial together. They have refused.

7. Prior to the commencement of the third action, my lawyer, Leo Klug brought a motion to add Nando Iannicca, Elaine Gilliland, Steven Fantin and Bill Ford as parties to the second action. Motion material was delivered. The motion was struck from the list. Rather than bringing the motion back on, which would be months away, we decided to issue a third action in which the individuals are named as party Defendants.

THE CLAIM AGAINST ELAINE GILLILAND, STEVEN FANTIN AND BILL FORD

8. Elaine Gilliland is the Director of waste water for the Public Works Department of Peel. Steven Fantin is the Director of Operations Support in the Public Works Department of Peel and Bill Ford is an Inspector in the Public Works Department of Peel. Nando Iannicca is the Regional Chair and Chief Executive Officer of Peel.

9. I complained to Mr. Iannicca by telephone voicemail message on April 24, 2020 to investigate the unwarranted invoicing and disconnections carried out by the Region of Peel. Mr. Iannicca had a public duty to investigate my allegations that the surcharges being levied by the Region of Peel were false, incorrect and excessive. I allege in the claim against Mr. Iannicca that his conduct in responding to my voicemail was carried out with malice and in bad faith and a flagrant abuse of his public office as Regional Chair and Chief Executive Officer of Peel.

10. D'Angelo Brands was served with a Notice of Water Disconnection dated April 13, 2020 demanding payment of \$435,064.53 immediately, failing which the water would be disconnected on April 27, 2020. There were more water disconnections. Annexed hereto and marked as **Exhibit "E"** to this my affidavit are copies of the following Notices of Water Disconnection:

Disconnection Date: August 15, 2019 – Amount Past Due \$2,125,973.53

Disconnection Date: March 25, 2020 – Amount Past Due \$363,505.07

Disconnection Date: April 27, 2020 – Amount Past Due \$435,064.53

Disconnection Date: August 19, 2020 – Amount Past Due \$152,667.61

Disconnection Date: September 23, 2020 – Amount Past Due \$113,908.03

Disconnection Date: October 16, 2020 – Amount Past Due \$129,146.66

Disconnection Date: December 1, 2020 – Amount Past Due \$221,908.07

11. I advised Mr. Iannicca that D'Angelo Brands would suffer financially in the midst of a Pandemic and asked him for a short extension and to investigate these unwarranted charges.

12. Mr. Iannicca, through his lawyer, Ms. Bruce responded, "If your client is able to make a payment on the outstanding amounts today please advise me of same and I will communicate that with the operations staff scheduled to effect disconnection on Monday."

13. As a customer, I disputed the invoices and I contend that Mr. Iannicca had an obligation and duty to inquire of the Commissioner and employees of Peel to investigate the over charges. Mr. Iannicca's conduct was malicious and in bad faith and a misuse of his public office. This was an unlawful exercise of his powers as the Chief Executive Officer of the Region of Peel and as such, I verily believe that he should personally be held accountable.

14. On many occasions, both verbally and in writing, I personally and through my manager complained about the excess charges. My complaints were ignored.

15. 215 retained in house laboratory and retained an external laboratory to measure the BOD component of the discharged waste water.

16. Annexed hereto and marked as **Exhibit "F"** to this my affidavit is a copy of two charts prepared by 215 which demonstrate the substantial over charges by Peel, in excess of \$500,000.00.

17. Annexed hereto and marked as **Exhibit "G"** to this my affidavit are the results of analysis of water except for the analysis dated November 20, 2019.

18. Bill Ford was responsible for the accuracy of the samples and his review of the BOD counts.

19. Mr Ford reported to Mr. Fantin and Ms. Gilliland. I complained to both Mr. Fantin and Ms. Gilliland of the inaccurate BOD readings and the excessive invoices. They refused to listen to me. They acted maliciously and in bad faith in their conduct in refusing to investigate my complaints.

20. We provided our internal laboratory analysis and the analysis of an external laboratory but Peel refused to consider them.

21. In paragraph 42 of the Statement of Claim, I set out the excessive charges between 2015 and 2020 totalling \$1,903,216.36. We conducted an audit under my supervision, notwithstanding complaints, water disconnections were threatened and carried out.

22. Mr. Rauf is the Billing Manager for the Region of Peel and he was responsible for billing practices and invoices. I contend that Mr. Rauf and personnel under Mr. Rauf's instructions and direction compiled and delivered excessive and false invoices for exorbitant amounts. He knew that the invoices were inflated and that there was no possible way for these readings be so high and charges on a monthly basis sometimes exceeded \$150,000.00. These irregular invoices were brought to employees' attention, in particular, one Ms. Accardo and I am sure she brought it to Mr. Rauf's attention, but absolutely nothing was done to alleviate the financial distress on 215. I contend that Mr. Rauf acted maliciously and in concert with the other individuals. These activities substantially contributed to 215's financial distress and being forced to shut down and go out of business.

23. 215 had to pay what was invoiced. It had no recourse. If it didn't pay then the water would be disconnected. 215 could not afford to stay in business. Hence, I wish the stay lifted in the third action, being action number CV-21-00003482-0000.

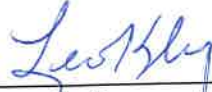
SWORN before me at the Town of Markham, in the Regional Municipality of York, this 13 day of February, 2023

Lesley

A Commissioner of Oaths, etc.

Frank D'Angelo
FRANK D'ANGELO

This is **Exhibit "A"** referred to in the
Affidavit of **Frank D'Angelo**
sworn before me this 13th day of
February, 2023



A Commissioner, etc.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE
JUSTICE OSBORNE

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THURSDAY, THE 3RD
DAY OF NOVEMBER, 2022

B E T W E E N:

CANADIAN WESTERN BANK

Applicant

and

2722959 ONTARIO LTD. and 2156775 ONTARIO LIMITED

Respondents

**ORDER
(Appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “CJA”) appointing MNP Ltd. (“MNP”) as an investigatory, non-possessory receiver (in such capacity, the “Receiver”) without security, of all of the assets, undertakings and properties of 2722959 Ontario Ltd. (“272”) and of the related or associated entity, 2156775 Ontario Limited (“215”), acquired for, or used in relation to a business carried on by 272, was heard this day at 330 University Avenue, 7th Floor, Toronto, Ontario.

ON READING the Affidavit of Rod Randall, sworn July 12, 2022 and the Exhibits thereto, the Supplementary Affidavit of Rod Randall, sworn September 2, 2022 and the Exhibits thereto,

the Responding Affidavit of Frank D'Angelo, sworn October 18, 2022, and the Exhibits thereto, the Reply Affidavit of Rod Randall, sworn October 24, 2022 and the Exhibits thereto, on hearing the submissions of counsel for Canadian Western Bank, counsel for 272 and 215, and the other parties listed on the Counsel Slip, and on reading the Consent of MNP to act as the Receiver,

SERVICE

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

APPOINTMENT

2. THIS COURT ORDERS and declares that 215 be and is hereby added as a respondent party in these proceedings.

3. THIS COURT ORDERS that pursuant to section 101 of the CJA, MNP is hereby appointed as Receiver, without security, of all of the assets, undertakings and properties of 272 and 215 acquired for, or used in relation to a business carried on by 272 and 215, including all proceeds thereof, including property held by 272 and 215 in trust for any third party (collectively, the "Property").

RECEIVER'S POWERS

4. THIS COURT ORDERS that, subject to the terms herein, the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to monitor 272's and 215's receipts and disbursements, including, without limitation, the right to access all information, computers, data, electronic or cloud-stored data, databases, or documents relating to 272's and 215's current and historical operations, including, without limiting the generality of the foregoing, having direct access to 272's and 215's banking statements, records and online banking data;
- (b) to have access to 272's and 215's premises at all times, without any requirement for prior notice;
- (c) to take physical inventories as may be necessary or desirable;
- (d) to take possession of and store any records and documents of 272 and 215, or records which relate in whole or in part to 272 or 215 and to review such records as may be necessary and advisable in connection with its mandate;
- (e) to take possession of any electronic records of 272 and 215, or electronic records which relate in whole or in part to 272 or 215 and any related computer hardware or software wherever located and to review such records as may be necessary and advisable in connection with its mandate;
- (f) to compel records of and conduct on-site inspections at the premises of any landlords of the Debtors or third parties who the Receiver believes may be in possession of any of the Property or Records (as defined below);
- (g) to obtain information from and engage with on behalf of 272 and 215 with any parties with whom 272 and 215 or any related party may have or had a business

relationship with including, IT consultants, co-packing arrangements, distribution licenses, and/or licenses related in whole or in part to the business of 272 and 215;

- (h) to obtain information from and engage with any suppliers, vendors, service providers, professionals or consultants of 272 and 215 as be necessary and advisable;
- (i) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of Receiver's powers and duties, including without limitation those conferred by this Order;
- (j) if deemed necessary or advisable by the Receiver in its sole discretion, to deliver notices of examination to and examine under oath any Person (as defined herein) with knowledge of the affairs of 272 and 215;
- (k) to report to, meet with and discuss with such affected Persons (as defined herein) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (l) to conduct an investigation, review or accounting of the financial affairs of 272 and 215, including a review of the state, location and value of all assets and inventory of 272 and 215 as well a intercompany transfers between 272 and 215 or to any other affiliated entity;

- (m) to inquire into and report to the Court on the financial condition of 272 and 215, and the Property, and any material adverse developments relating to the financial condition of 272 and 215, and/or the Property;
- (n) to report to the Court on any matter it deems appropriate;
- (o) to attend this Court to seek amendments of this Order as it deems necessary or desirable; and
- (p) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including 272 and 215, and their shareholders, officers and directors and without interference from any other Person.

5. THIS COURT ORDERS that, for greater certainty, the Receiver shall not be in possession or control of the Property (other than with respect to Records (as defined below)) without a further order of this Court and shall not be required to issue the statement set out in Section 246 of the BIA without a further order of this Court.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

6. THIS COURT ORDERS that (i) 272 and 215, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on either of their instructions or behalf, including Mr. Frank D'Angelo, and (iii) 215 and

all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order, including Mr. Mike Cavajal and Canada Revenue Agency (all of the foregoing, collectively, being “Persons” and each being a “Person”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver during regular business hours, and shall deliver all such Property to the Receiver upon the Receiver’s request, subject to paragraph 5 herein.

7. THIS COURT ORDERS that all Persons, including Mr. Frank D’Angelo, Mr. Mike Cavajal and Ms. Gemma Runaghan shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of 272 and 215, including:

- (a) electronic records wherever located;
- (b) email accounts under the domain dangelobrand.ca and email accounts in any cloud-based email system such as Hotmail or Gmail, including, but not limited to gemmarunaghan@hotmail.com, gemma.runaghan@dangelobrand.ca, gemma.runaghan@hotmail.com, mrfrankdangelo@hotmail.com and frank@dangelobrand.ca; and
- (c) any computer programs, computer tapes, computer disks, or other data storage media containing any such information.

(the foregoing, collectively, the “Records”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 7 or in paragraph 8 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure. For avoidance of doubt and subject to this paragraph 7 hereof, whenever the Receiver seeks to access a document or information relating to 272 or 215 under this Order, including without limitation the Property or Records (as defined below), the Receiver shall be given such document or information in accordance with this Order notwithstanding that they may relate in whole or in part to other businesses or Persons.

8. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the Records contained therein whether by way of printing the information onto paper or making forensic copies of computer disks or such other manner of retrieving and copying the Records as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing

the Receiver with any and all credentials access codes, account names and account numbers that may be required to gain full access to the Records.

PRODUCTION AND DISCLOSURE

9. THIS COURT ORDERS that without limiting the generality of paragraphs 6, 7, and 8, by no later than 5:00pm (Toronto Time) on December 2, 2022, all Persons, including Mr. Mike Carvajal, Mr. Frank D'Angelo and Ms. Gemma Runaghan shall provide to the Receiver forensic copies of Records contained in:

- (a) email accounts under the domain dangelobrand.ca and email accounts in any cloud-based email system such as Hotmail or Gmail, including, but not limited to gemmarunaghan@hotmail.com, gemma.runaghan@dangelobrand.ca, gemma.runaghan@hotmail.com mrfrankdangelo@hotmail.com and frank@dangelobrand.ca; and
- (b) any text communications in relation to 272 and 215 on any mobile device, personal computer or tablet, including but not limited to text messages on iMessage, Whatsapp or similar applications; and
- (c) any information relating to sales or transfers as between 272 and 215 or any other related company.

10. THIS COURT ORDERS that, subject to paragraphs 6, 7, and 8 and without limiting the generality of paragraphs 6, 7, and 8 any professional engaged by 272 and 215 including Warren Feldstein and Feldstein & Associates LLP is authorized and directed to provide to the Receiver, at

its request, copies of all Records in their possession, including, but not limited to, all notes, correspondence, working papers and source documents of any nature.

ADDITIONAL DUTIES OF AND RESTRICTIONS ON 272 AND 215

11. THIS COURT ORDERS that 272 and 215 shall:

- (a) not sell, transfer, gift, convey or otherwise dispose of Property, other than in the ordinary course of business, without the prior written consent of the Applicant (other than amounts to pay down obligations owing to the Applicant);
- (b) not make, or enter into any contract, amendment or other written agreement that involves an expenditure greater than \$2,500.00 without the prior written approval of the Receiver; and
- (c) provide to the Receiver, upon request of and on or before the deadline required by the Receiver, such reporting as may be required by the Receiver in its sole discretion, including, without limitation, 272's and 215's financial condition, daily, weekly or monthly receipts and disbursements, inventory counts or lists, sales reports, accounts payable and receivable, profit and loss statements, locations and listings of assets.

NO PROCEEDINGS AGAINST THE RECEIVER

12. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST 272 AND 215 OR THE PROPERTY

13. THIS COURT ORDERS that no Proceeding against or in respect of 272, 215, or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of 272, 215, or the Property are hereby stayed and suspended pending further Order of this Court, save and except, pending further Order of this Court, the action *2722959 Ontario Inc. et al v Canadian Western Bank et al*, bearing Court File No. CV-22-00001968-0000.

NO EXERCISE OF RIGHTS OR REMEDIES

14. THIS COURT ORDERS that all rights and remedies against 272, 215, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or 272 and 215 to carry on any business which 272 and 215 is not lawfully entitled to carry on, (ii) exempt the Receiver or 272 and 215 from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

15. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence

or permit in favour of or held by 272 and 215, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

16. THIS COURT ORDERS that all Persons having oral or written agreements with 272 and 215 or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to 272 and 215 are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of 272's and 215's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of 272 and 215 or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

EMPLOYEES

17. THIS COURT ORDERS that the Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA.

LIMITATION ON ENVIRONMENTAL LIABILITIES

18. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER’S LIABILITY

19. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the

protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

20. THIS COURT ORDERS that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a Judge of the Commercial List of the Ontario Superior Court of Justice.

SERVICE AND NOTICE

21. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission.

22. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to 272's and 215's creditors or other interested parties at their respective addresses as last shown on the records of 272 and 215, and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

23. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

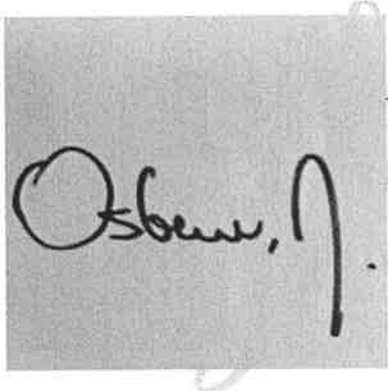
24. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a Trustee in bankruptcy of 272 and 215.

25. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States 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.

26. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

27. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

28. THIS COURT ORDERS that the Receiver, its counsel and counsel for the Applicant are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the creditors of 272 and 215 or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).



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CANADIAN WESTERN BANK

**2722959 ONTARIO LTD. and
2156775 ONTARIO LTD.**

Respondents

Applicant

and

COURT FILE NO.: CV-22-00684100-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding Commenced at Toronto

**ORDER
(APPOINTING RECEIVER)**

MILLER THOMSON LLP

Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, ON Canada, M5H 3S1

Gavin H. Finlayson LSO#: 44126D
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ksonshine@millerthomson.com
Tel: 416.595.8166

Lawyers for the Applicant,
Canadian Western Bank

This is **Exhibit "B"** referred to in the
Affidavit of **Frank D'Angelo**
sworn before me this 13th day of
February, 2023



A Commissioner, etc.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

2156776 ONTARIO INC. cob as D'ANGELO BRANDS

Plaintiff

- and -

THE REGIONAL MUNICIPALITY OF PEEL

Defendant

STATEMENT OF CLAIM
(Notice of Action issued August 19, 2020)

1. The Plaintiff claims as against the Defendant:

- (a) Damages in the amount of \$3,000,000.00 for breach of contract, negligence, bad faith and breach of the Defendant's statutory duty arising out of the supply of water and the discharge of waste water from the Plaintiff's business premises located at 4500 Eastgate Parkway, in the City of Mississauga and arising out of the Defendant's breach of contract, negligence, bad faith and breach of statutory duty arising out of a Sewage Discharge Agreement dated January 1, 2019 entered into between the Plaintiff and the Defendant;
- (b) Full disclosure and an accounting by the Defendant of all measurements, testing conducted by employees of the Defendant or by independent laboratories with respect to the quantity of waste water discharged into the Defendant's sewage system;

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

2156776 ONTARIO INC. cob as D'ANGELO BRANDS

Plaintiff

- and -

THE REGIONAL MUNICIPALITY OF PEEL

Defendant

STATEMENT OF CLAIM
(Notice of Action issued August 19, 2020)

1. The Plaintiff claims as against the Defendant:

- (a) Damages in the amount of \$3,000,000.00 for breach of contract, negligence, bad faith and breach of the Defendant's statutory duty arising out of the supply of water and the discharge of waste water from the Plaintiff's business premises located at 4500 Eastgate Parkway, in the City of Mississauga and arising out of the Defendant's breach of contract, negligence, bad faith and breach of statutory duty arising out of a Sewage Discharge Agreement dated January 1, 2019 entered into between the Plaintiff and the Defendant;
- (b) Full disclosure and an accounting by the Defendant of all measurements, testing conducted by employees of the Defendant or by independent laboratories with respect to the quantity of waste water discharged into the Defendant's sewage system;

- (c) Full disclosure and an accounting of all tests, measurements and reports of the Defendant's employees and independent laboratories with respect to the measurement of BODs from the Plaintiff's premises from November 1, 2019 to present and to the date of trial and with respect to the aforementioned measurements and reports, that credit be given to the Plaintiff for the amounts paid and interest thereon;
- (d) An interlocutory and permanent injunction restraining the Defendant, its employees, agents and all persons provided with a copy of the Order of this court from disconnecting the water supply to the premises at 4500 Eastgate Parkway, Mississauga, Ontario;
- (e) Prejudgment interest pursuant to the Courts of Justice Act;
- (f) Costs of these proceedings on a full or substantial indemnity basis;
- (g) Such further and other relief as to this Honourable Court deems just.

2. The Plaintiff corporation is a manufacturer, co-packer and distributor of beverages. Its plant is located at 4500 Eastgate Parkway, Mississauga, Ontario. The Plaintiff has operated its business at this location for over 15 years.

3. The Defendant is a municipal corporation incorporated under the laws of the Province of Ontario and is responsible for the delivery of services and infrastructure related to water delivery and waste water treatment. The Defendant provides water and waste water services to the Plaintiff.

4. The provision of waste water services is governed by By-law 53-2010.

5. The Defendant entered into a number of Sewage Discharge Agreements with the Plaintiff. Pursuant to these Agreements, the Plaintiff can discharge waste water that is over the limits as set forth in the aforementioned By-law and pay the region to treat the high strength waste water. This is referred to as a surcharge.

6. Paragraphs 2 and 3 of the Sewage Discharge Agreement states:

2. Subject to paragraph 3, the discharge into or in any sanitary sewer, land drainage works, private branch drains or connections to any sanitary sewer of matter by the Company from the said premises containing B.O.D., S.E.M., T.S.S., or P in excess of the By-law limits shall be permitted in accordance with Section 6 of the By-law, and the Company hereby covenants and agrees to pay to The Regional Municipality of Peel a surcharge calculated as follows and payable on a monthly basis.

3. Despite paragraph 2, the Company shall not discharge or deposit or cause or permit the discharge or deposit of matter of a kind, in such quantity or of such concentration listed below:

B.O.D.	-	3,500mg/L
T.S.S.	-	1,000mg/L
P	-	100mg/L

7. In determining the quality of sewage for the purposes of this agreement, the volume of any stormwater or any water which is required to be deducted for the purposes of the By-law shall be deducted and Standard Methods as defined in the By-law shall be used.

7. The Defendant bills the Plaintiff monthly for charges related to water/waste water/storm water services under account number 58541100 (585 billings) and bills for surcharges separately also on a monthly basis under account number 2156ONT00 (215 billings).

8. The 585 water bills are broken down into components for water consumption (based on the inflow meter), wastewater and storm water. The 215 billings are for sewer surcharge. The sewer surcharge is claimed by the Region pursuant to its by-law no. 53-2010 which was passed, in part, to regulate the discharge into the Region's sewage works of prohibited materials over and above certain limits. One of the materials is Biochemical Oxygen Demand (BOD's) having a prescribed limit of 300 mg per litre. In the Plaintiff's manufacture of beverages it uses sugar, some of which is dissolved in the wastewater and which is a BOD.

9. The Plaintiff pleads that the Defendant has incorrectly and improperly billed the Plaintiff with unwarranted and excessive amounts of money for the sewer discharge volumes (585 billings). The Region's calculations are incorrect. The Plaintiff further pleads that the surcharge billings (215 billings) are also improper and incorrect and are excessive and unwarranted.

10. The Plaintiff further pleads that the samples that were taken by the Defendant's employees or representatives were taken in an improper and negligent manner and not in accordance with Standard Methods as defined in paragraph 7 of the Surcharge Agreement. The Plaintiff further pleads that the BOD readings on the enforcement reports from November 2019 to the present were calculated in an improper and negligent manner by the Defendant's employees and further, the Plaintiff pleads that the inspectors who took samples were inexperienced and did not carry out their mandate in accordance with the proper Standard Methods. Further, the review by the Defendant's employees on each of the enforcement reports were done improperly and negligently and the BOD numbers inserted in the reports were done in an improper and negligent manner without due care and attention. The Plaintiff further pleads that the improper Bod calculations in the reports were drawn to the Defendant's attention, the

Defendant acting in bad faith refused to re-visit or correct the reports or to provide the backup primary material to justify their calculations.

11. The Plaintiff issued a Notice of Application in the Superior Court dated July 31, 2019. The Plaintiff was the Applicant, the City of Mississauga and the Regional Municipality of Peel were the Respondents.

12. In that application, the Plaintiff alleged that the Region repeatedly invoiced the Plaintiff for waste water discharge in amounts that were grossly excessive and with respect to the surcharge billings, that these charges were excessive and inaccurate.

13. The Region resolved their differences by way of Minutes of Settlement dated December 5, 2019 without any admission of liability by adjusting the Plaintiff's billings by \$695,295.00 as a credit towards the two aforementioned accounts and the Plaintiff released the Region of all claims up to November 22, 2019.

SURCHARGE INVOICES

14. Commencing January 8, 2020, the Region commenced issuing surcharge invoices. The initial invoice was dated January 8, 2020 in an amount of \$157,461.06.

15. Thereafter, further invoices were issued on a periodic or monthly basis with incorrect figures from BODs and for incorrect and excessive amounts

16. The Region took samples on a monthly basis and issued a Pollution Control Waste Water By-law Enforcement Report which in part contained the Region's reading of B.O.D.s.

17. The Plaintiff maintains its own internal laboratory and tests for B.O.D.s, phosphorous and PH twice a day.

18. The Plaintiff retained Gelda Scientific and Industrial Development Corporation, an independent laboratory to conduct and provide independent laboratory analysis reports.

19. The Plaintiff's internal laboratory reports and the reports from Gelda Scientific were provided to the Defendant.

20. The Plaintiff states that the Region has over charged the Plaintiff in excess of \$300,000.00 on invoices commencing January 8, 2020 (for the report and BOD reading of November 12, 2019 up to and including the report of July 2020.

21. Annexed hereto as Schedule "A" to this Statement of Claim are the cost calculations based on an average third party Gelda Scientific BOD results in comparison to the Sample BOD taken by the Region of Peel. The over charge amounts to \$326,800.00 from November 2019 to July 2020.

22. Annexed hereto as Schedule "B" to this Statement of Claim are similar calculations utilizing based on average BOD third party Gelda Scientific and the internal plant laboratory readings in comparison to the BOD readings taken by the Region of Peel. Those excess charges between November 2019 and July 2020 total \$364,246.00.

23. In January of 2020, the Plaintiff received the discharge invoice for the month of November 2019 in the amount of \$157,461.06. Management wrote to the Defendant by email dated January 29, 2020 that the surcharge of \$157,464.06 was absolutely not fair and "will put the company into tribulation".

24. The Plaintiff complained until mid March 2020 of this BOD reading and the subsequent BOD readings including February 2020 of 4900 mg/L.

25. By email dated February 6, 2020 to the Plaintiff, the Region stated, "Right now the November result will stand as I did express to Frank some concerns."

26. On March 11, 2020, the Region agreed to come to the plant to take a variety of samples from different areas of the plant to test BODs. Representatives of the Plaintiff collected the identical samples which were collected every twenty minutes starting at 11:00 a.m. to 13:30 p.m. for a total of ten samples. The Plaintiff attached the Gelda Scientific results for the Plaintiff's samples collected at the same time as the Region. The Plaintiff never received any feed back from the Region regarding the test results of the samples being collected. The test results from Gelda Scientific and the internal lab reports of the Plaintiff showed very low BOD numbers.

27. In March 2019, the Region sent the BOD test results as 11,000 mg/L. The Plaintiff questioned and complained that the results were not correct and the reading was very high. The Region attended and carried out a re-sampling. The Region then revised the results and charges and sent an enforcement report dated March 26, 2019 with the notation "PH violation of by-law. Please investigate and correct". Thereafter the Region reduced their charges. The Region did not send the Plaintiff the revised results.

WATER DISCHARGE INVOICES

28. The Plaintiff states that the water discharge invoices commencing November 2019 are excessive. To date, the Plaintiff estimates that the excessive charges from November 2019 as of August 2020 are approximately \$70,000.00.

29. Commencing November 2019, the Region billed 100% of the water consumed as a discharge fee notwithstanding that 29% to 30% of the water is consumed in the Plaintiff's manufacturing process. In the subsequent year, it requires an expert's report and an appeal by the Plaintiff for a reduction. This is unwarranted and unfair and exhibits bad faith on the part of the Defendant.

NOTICES OF WATER DISCONNECTIONS

30. The Region has served three Notices of Water Disconnections. One resulting in a water disconnect between April 27, 2020 and a reinstatement on May 1, 2020 and a second on August 19, 2020 to August 22, 2020. On both occasions, the plant was closed and production was cancelled.

31. In the closure in April of 2020, the Defendant claimed that the overdue amounts were approximately \$435,000.00. The Plaintiff pleads that this amount is excessive, unwarranted, exaggerated and made in bad faith. The Plaintiff had no choice but to pay the amount that was being claimed and the water was reconnected.

32. In August of 2020, the Defendant claimed overdue amounts of \$152,667.61. The water was turned off and the plant closed. The Plaintiff brought proceedings in this court before the Honourable Justice Emery who dismissed the motion for injunctive relief. The Plaintiff immediately raised the money, paid the amount that was owing and the water was reconnected. The amount being claimed of \$152,667.61 was excessive, overstated and made in bad faith. In both instances, in April and in August, the disconnect was made arbitrarily and in bad faith.

33. The Defendant has now served a further Notice of Water Disconnection dated September 9, 2020 for a past due amount of \$113,908.03. The disconnection date is September 23, 2020. The Plaintiff has paid under protest the sum of \$71,000.00 and it intends to pay the balance before the disconnection date of September 23, 2020.

34. The Plaintiff states that the damages suffered as a direct consequence of the Defendant's overbillings and water disconnect are as follows:

(a)	The overcharges for the surcharge based on Schedule 1	\$326,800.00
(b)	The overcharges on the failure to give credit for consumption of 29% and the billing of wastewater discharge at 100%	\$100,000.00
(c)	The Plaintiff is a co-packer. It packages and bottles beverages for national brands. The revenue that it lost is profit. Between April 27, 2020 and May 1, 2020, the loss of revenue is	\$650,000.00
(d)	The loss of revenue and profit in August of 2020	\$512,000.00

35. The Plaintiff will be met with additional unwarranted and overstated surcharges and additional wastewater charges which it estimates to be \$500,000.00.

36. The Plaintiff cannot sustain a further closure of the plant. At the same time, the Defendant unjustifiably refuses to provide full disclosure of all tests, analysis done and all back up material to the reports issued unless ordered otherwise by this court. The Plaintiff will suffer serious irreparable harm from a plant closure and employees will be put out of work.

37. The Plaintiff proposes the action be tried in Brampton.

DATED: September 17, 2020

KLUG LAW
Barristers and Solicitors
100 Allstate Parkway
Suite 800
Markham, Ontario L3R 6H3

Leo Klug
Law Society no. 12452U
leoklug@kluglaw.ca
Telephone: (905) 947-8771
Facsimile: (905) 947-0529

Lawyer for the Plaintiff

SCHEDULE "A"

Cost calculation based on average third party Gelda Scientific BOD
Versus City Sample BOD taken by Region of Peel (chart 5 of 7)

Date	Gelda & Internal LAB BODS test	Region of Peel BODS test	Outgoing Wastewater to City m3 (71% shrinkage Factor)	\$ Region Surcharge for BODS	\$ Surcharge Should be paid for BODS	\$ Region over charged
November-19	537 mg/L	6000 mg/L	3537	\$157,461.06	\$1,006.00	(\$156,455.06)
December-19	819 mg/L	1500 mg/L	2390	\$20,952.66	\$1,488.00	(\$19,464.66)
January-20	1070 mg/L	1100 mg/L	14639	\$14,937.35	\$13,845.00	(\$1,092.35)
February-20	1855 mg/L	4900 mg/L	19689	\$113,030.19	\$37,532.00	(\$75,498.19)
March-20	738 mg/L	1000 mg/L	16144	\$14,350.51	\$8,674.00	(\$5,676.51)
April-20	1738 mg/L	3300 mg/L	18403	\$69,015.13	\$32,439.00	(\$36,576.13)
May-20	1022 mg/L	890 mg/L	17323	\$13,091.13	\$15,363.00	\$2,271.87
June-20	1550 mg/L	2500 mg/L	17419	\$41,801.40	\$26,730.00	(\$15,071.40)
July-20	1580 mg/L	2400 mg/L	18797	\$48,775.13	\$29,537.00	(\$19,238.13)
					Total Region Overcharged	(\$326,800.56)

SCHEDULE "B"

Cost calculation based on average BOD third party Gelda Scientific & Plant Lab Versus City Sample BOD taken by Region of Peel (chart 6 of 7)

Date	Gelda & Internal LAB BODS test	Region of Peel BODS test	Outgoing Wastewater to City m3 (71% shrinkage Factor)	\$ Region Surcharge for BODS	\$ Surcharge Should be paid for BODS	\$ Region over charged
November-19	562 mg/L	6000 mg/L	3537	\$157,461.06	\$1,108.00	(\$156,353.06)
December-19	743 mg/L	1500 mg/L	2390	\$20,952.66	\$1,273.00	(\$19,679.66)
January-20	927 mg/L	1100 mg/L	14639	\$14,937.35	\$11,259.00	(\$3,678.35)
February-20	1365 mg/L	4900 mg/L	19689	\$113,030.19	\$25,722.00	(\$87,308.19)
March-20	712 mg/L	1000 mg/L	16144	\$14,350.51	\$8,139.00	(\$6,211.51)
April-20	1375 mg/L	3300 mg/L	18403	\$69,015.13	\$24,245.00	(\$44,770.13)
May-20	902 mg/L	890 mg/L	17323	\$13,091.13	\$12,813.00	(\$278.13)
June-20	1287 mg/L	2500 mg/L	17419	\$41,801.40	\$21,090.00	(\$20,711.40)
July-20	1321 mg/L	2400 mg/L	18797	\$48,775.13	\$23,519.00	(\$25,256.13)
					Total Region Overcharged	(\$364,246.56)

2156776 ONTARIO INC. cob as D'ANGELO BRANDS - and - THE REGIONAL MUNICIPALITY OF PEEL

SUPERIOR COURT OF JUSTICE
Proceedings commenced at **Brampton**

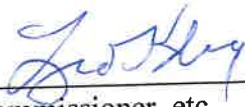
STATEMENT OF CLAIM

KLUG LAW
Barristers & Solicitors
100 Allstate Parkway
Suite 800
Markham, ON L3R 6H3

Leo Klug
Law Society No. 12452U
leoklug@kluglaw.ca
Telephone: (905) 947-8771
Facsimile: (905) 947-0529

Lawyers for the Plaintiff

This is **Exhibit "C"** referred to in the
Affidavit of **Frank D'Angelo**
sworn before me this 13th day of
February, 2023

A handwritten signature in blue ink, appearing to read "Leo Hry", written over a horizontal line.

A Commissioner, etc.



Court file No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Electronically issued : 23-Aug-2021
Délivré par voie électronique
Brampton

2156775 ONTARIO INC. cob as D'ANGELO BRANDS

Plaintiff

- and -

THE REGIONAL MUNICIPALITY OF PEEL
and THE CITY OF MISSISSAUGA

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

(Where the claim made is for money only, include the following:)

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$5,000.00 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$3,000.00 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: August 23, 2021

Issued by _____
Local Registrar

7755 Hurontario Street
Brampton, Ontario
L6W 4T6

TO: THE REGIONAL MUNICIPALITY OF PEEL
c/o Ms. Jennifer Bruce, Legal Counsel
10 Peel Centre Drive
Brampton, Ontario
L6T 4B9

AND TO: THE CITY OF MISSISSAUGA
c/o Mr. Colin Holland, Legal Counsel, Litigation
300 City Centre Drive
10th Floor
Mississauga, Ontario
L5B 3C1

CLAIM

1. The Plaintiff claims as against the Defendants:

- (a) An interim, interlocutory and mandatory order that the tax lien filed with the City of Mississauga against property at 4500 Eastgate Parkway, Mississauga, be removed, discharged and deleted from the tax rolls and declaring that the Plaintiff is to provide:
- i. A fixed and floating charge in first priority over all the equipment, chattels and assets of the Plaintiff located at 4500 Eastgate Parkway, Mississauga, which is more particularly described in a fixed asset appraisal report conducted by Kohli Appraisers with an effective date of October 13, 2020 which equipment had a market value appraised at \$10,766,000.00;
 - ii. That the amount of the security in the form of a fixed and floating charge over the said equipment be in the amount of \$3,000,000.00, which includes a premium or an additional amount of security in the approximate amount of 25% of the current tax lien;
 - iii. That the Plaintiff will continue to pay the sum of \$15,000.00 every two weeks to the bailiff retained by the City of Mississauga until the trial of this action or as the trial judge may direct;
- (b) A judgment and declaration that the Minutes of Settlement entered into between the Plaintiff and the Regional Municipality of Peel in November and December 2019 be set aside;

- (c) A judgment and declaration that a Full and Final Release signed by the Plaintiff dated November 22, 2019 be set aside;
- (d) An accounting and disclosure from the Defendants with respect to
 - i. water charges and surcharges billed by the Region for the period from November 2017 to the date of trial;
 - ii. all bailiff charges billed to the Plaintiff;
 - iii. all interest charges charged by the Defendants from November 2017 to the date of trial
- (e) A reduction and adjustment of all water charges, surcharges interest and bailiff's fees as this court may order and if necessary, that a reference be directed as this court may direct to determine appropriate reductions;
- (f) Prejudgment interest and post judgment interest as applicable, pursuant to the *Courts of Justice Act*;
- (g) Its costs of this action on a scale to be determined by this court; and
- (h) Such further and other relief as may be warranted or as may be directed by this Honourable Court.

2. The Plaintiff is a duly incorporated company that carries on business at 4500 Eastgate Parkway, Mississauga, Ontario. It manufactures and co-packages approximately 50,000 cases per day of consumer drinks for the public. It is presently a tenant at 4500

Eastgate Parkway. The landlord is Rovinelli Construction Inc. It leases approximately 60,000 square feet. It employs approximately 200 people.

3. The Regional Municipality is in charge of supplying water to the Plaintiff's facility.
4. The City of Mississauga is a municipal corporation and is charged with collecting realty taxes that are assessed against the subject matter property at 4500 Eastgate Parkway.

APPLICATION COMMENCED BY THE PLAINTIFF AGAINST THE CITY OF MISSISSAUGA AND THE REGIONAL MUNICIPALITY OF PEEL IN THE SUPERIOR COURT IN NEWMARKET

5. The Plaintiff commenced legal proceedings against both Defendants by application issued on July 31, 2019. In that application the Plaintiff claimed an injunction restraining both Defendants from exercising enforcement procedures arising out of billings for wastewater charges and sewage surcharges at the premises located at 4500 Eastgate Parkway, Mississauga.
6. Affidavits were filed. Mr. Frank D'Angelo, the President of the Plaintiff, swore an affidavit on August 6, 2019 in which he deposed at paragraph 10::

The Applicant takes no issue with and has never taken any issue with the water charged to it by the Region through account 585. That charge is based on the inflow meter readings which are accepted by both the Applicant and the Region. The Applicant takes issue with the volumes of wastewater being charged by the Region, with the sewer surcharge volumes and calculations charged by the Region and the conduct of the Region.

7. Ms. Elaine Gilliland, the Director of Wastewater in the Public Works Department for the Region of Peel in which Ms. Gilliland deposed at paragraph 8:

Water services are charged by Peel based on volume of water delivered to the premises, that is calculated from water meter readings. There is no dispute between the parties as to the meter readings of the volume of water that is delivered to the premises.

8. The parties resolved this litigation by entering into Minutes of Settlement in November and December 2019 and by the Plaintiff delivering a Release to the Regional Municipality of Peel dated November 22, 2019.

9. Paragraphs 1, 2, 3 and 4 of the Minutes of Settlement provided as follows:

1. The parties acknowledge and agree that the Region will prepare a billing adjustment by applying an appeal rate of 71% to all wastewater and surcharge amounts charge in 2018, with the total amount of wastewater and surcharge owing for amounts charged in 2018 being adjusted from \$964,186 to \$645,556.

2. The parties acknowledge and agree that the Region will prepare a billing adjustment by applying an appeal rate of 71% to all wastewater and surcharge amounts charge in 2019, subject to financial adjustment of all 2019 charges following the Applicant's submission of a report proving reduced Sewer discharge in compliance with Part 20 of By-law 53-2010, with the total amount of wastewater and surcharge owing for amounts charged in 2019 being adjusted from \$1,227,727 to \$848,062.

3. The Parties acknowledge and agree that all late payment fees and interest charges that have been applied by the Region to accounts 585411000 and 2156ONT001, as well as all administrative charges and interest that have been applied by the City of Mississauga Municipal Tax Department to the property tax roll for the premises municipally known as 4500 Eastgate Parkway, will not be subject to any adjustment and full payment of these amounts remains the sole responsibility of the Applicant.

4. The Parties acknowledge and agree that the total amount of the billing adjustment outlined in paragraphs 1 and 2 of these Minutes of Settlement will be applied as a credit to the outstanding amounts and any amounts due on accounts 585411000 and 2156ONT001 as of the date of these Minutes of Settlement.

10. It is these Minutes of Settlement and the Release that the Plaintiff in this action seeks to set aside.

11. Commencing in November 2019, the Region of Peel commenced issuing invoices for water consumption charges and surcharges for excessive amounts.

12. The Region of Peel served notices to disconnect the water on multiple occasions and did in fact disconnect the water. Notwithstanding the complaints by the Plaintiff, the Region of Peel persisted in its excessive and improper billings.

13. The City of Mississauga applied all billings arising out of the Minutes of Settlement and further excessive billings that were not paid together with interest and bailiff fees to the property tax roll at 4500 Eastgate Parkway.

14. By a Notice of Action issued August 19, 2020, the Plaintiff commenced proceedings against the Region of Peel claiming damages for breach of contract, negligence and bad faith and for a full accounting and disclosure of their testing and billing practices.

15. That litigation is ongoing. Pleadings have been delivered and there are motions pending to amend the pleadings and Affidavits of Documents have been exchanged and there is a motion pending by the Plaintiff for further documentation.

16. In the context of that litigation, the Region of Peel continued to send billings for water consumption and surcharge fees to the Plaintiff. The Plaintiff has continuously questioned and disputed the amount of charges.

17. In August 2021, in the context of the litigation presently before this court, the lawyer for the Region of Peel, Jennifer Bruce, sent an email to the Plaintiff's lawyer, Mr. Klug on Friday, August 6, 2021 at 8:58 p.m. Ms. Bruce advised Mr. Klug, "It appears that during that time, the large water meter on the premises was not operating correctly and so the volumes for November and December were revised based on historical consumption to account for the consumption not measured before the meter was fixed."

18. The Plaintiff pleads that the reference to November and December stated above referred to November and December 2019. The Plaintiff pleads that it had no knowledge and was never informed that the large water meter for the premises at 4500 Eastgate Parkway was not operating correctly. The Plaintiff pleads that it entered into Minutes of Settlement and provided a Release based on fraudulent and intentional misrepresentations made by the Region of Peel that the quantities of water and hence the amounts being charged by the Region in paragraphs 1 and 2 of the Minutes of Settlement were accurate.

19. The Plaintiff pleads that these amounts were not accurate and are inflated. The Plaintiff pleads that the Defendant, the Region of Peel fraudulently and intentionally misrepresented and arbitrarily adjusted the water consumption figures which resulted in excessive water consumption charges and which further resulted in excessive discharge surcharges.

20. The Plaintiff pleads that the Region of Peel fraudulently, intentionally and arbitrarily misrepresented the water consumption amounts and the discharge amounts and hence the billings on both water consumption and surcharges on discharge. These acts were done deliberately, fraudulently and intentionally from November 2019 to the present.

21. It was only on August 6, 2021 that this disclosure was made. The Plaintiff therefore pleads that the Minutes of Settlement and the Release should be set aside and that the Plaintiff be given proper disclosure and an accounting as to the true quantity of water supplied and discharged and accurate billing amounts.

22. The City of Mississauga issued a Tax Warrant to a bailiff appointed by it, Barton and Company (Bailiffs) Limited after the Minutes of Settlement were entered into.

23. Barton and Company issued a notice dated February 24, 2021 to Rovinelli Construction Inc., the owner and landlord of the premises, distraining all goods and chattels on the premises and giving notice that an amount of \$2,378,044.68 must be paid by March 2nd, 2021 and giving further notice that the bailiff may seize all goods and chattels on the premises to be sold by public auction. The amounts being claimed in this notice are as follows:

Taxes and penalty as per warrant	\$2,225,519.42
Interest of 1.25% per month from Mar. 01/21	\$ 26,783.41
Bailiffs Costs (includes H.S.T. of \$14,465.88)	\$ 125,741.85
Disbursements	\$ 0.00
TOTAL	\$2,378,044.68

24. The bailiff charged 5% of all amounts collected and remitted 95% to the City of Mississauga. The Plaintiff has been making voluntary payments to the bailiff in the amount of \$15,000.00 every two weeks, under protest. This has amounted to approximately \$450,000.00 paid to date under protest. The bailiff has also delivered a ledger indicating that he wishes bailiff's costs of approximately \$125,000.00 and has added this to the debt and tax rolls..

25. By letter dated March 3, 2021, the Plaintiff's lawyer wrote to the City of Mississauga's lawyer requesting that the tax lien be removed and offering to make substantial monthly payments. This was declined by the City of Mississauga. The Plaintiff's lawyer wrote to the City of Mississauga's lawyer by letter dated March 29, 2021 complaining of additional charges of \$257,350.41 and an additional amount under a column entitled "Fee/Charge" in the amount of \$120,018.67 and GST in the amount of \$15,602.43.

26. The City's lawyer sent an email of April 23, 2021 that the bailiff was entitled to charge the full amount of his fees at 5% on the total owing.

27. The Plaintiff has protested on these exorbitant charges as well as interest being charged at 18% per annum.

28. The Plaintiff continues to make voluntary payments in the amount of \$15,000.00 under protest every two weeks to the bailiff.

29. By letter dated June 15, 2021, the Plaintiff's lawyer advised the City lawyer that the Plaintiff was investigating posting a letter of credit to stand in place of the tax lien.

The City's lawyer responded that he was aware of any authority allowing the Plaintiff to post such a letter of credit.

THE SALE OF THE BUILDING BY THE LANDLORD

30. The landlord has sold the building. The Agreement of Purchase and Sale has now been extended to September 1, 2021.

31. The lawyer for the purchaser sent a letter dated July 27, 2021 to the Plaintiff's counsel requesting that the lien on the property be removed immediately.

32. By a further letter dated July 29, 2021, the lawyer for the purchaser sent a second letter advising that the landlord wished to terminate the existing tenancy (between the Plaintiff and the owner, Rovinelli Construction). The purchaser's lawyer advised that the current lien is an impediment to the closing between his client, the purchaser and the owner. He further advised that the Plaintiff and his client, the purchaser agreed to a long term favourable lease agreement once the transaction closed. He advised that if the transaction could not be completed, that the landlord has decided to terminate the existing lease with the Plaintiff. If the lease is terminated by the landlord, the business will close, approximately 200 employees will be put out of work and the Plaintiff will suffer irreparable harm which cannot be quantified in monetary terms.

33. The lawyers for both the Region and the City were provided with copies of both letters. The lawyer for the Region has advised that the tax lien will not be removed from the tax roll until the full amounts as claimed by the bailiff, including the bailiff's fees and all interest has been paid in full.

34. The Plaintiff has continuously disputed the charges billed by the Region and the charges by the City of Mississauga, including bailiff's charges and interest.

35. The Plaintiff pleads that it has been over charged by the Region.

36. The Plaintiff has been a tenant in the premises for approximately 20 years. It occupies approximately 60,000 square feet and employs approximately 200 people. It has substantial clients, one of which is a national brand: Arizona Tea which it co-packs. The average volume is approximately 50,000 cases per day. The Plaintiff also has other substantial clients and customers primarily in the United States.

37. The Plaintiff is current with its payment of the invoices delivered by the Region of Peel and has continuously made payments to the bailiff of \$15,000.00 every two weeks under protest.

38. Interest is being charged at 18% per annum. The Region of Peel is permitted to charge interest not to exceed 1¼% per month, yet they choose to charge the maximum rate of interest in these difficult economic times. The Plaintiff through its lawyer requested a reduction of interest and an elimination of the bailiff's fees. The Defendants have refused.

39. The Plaintiff commissioned an appraisal through a certified and qualified equipment appraiser. As of October 2020, the appraiser for bank purposes valued the equipment at \$10,700,000.00. The equipment consists of four production lines which operate seven days a week at capacity.

40. The Plaintiff is operating at full capacity with substantial clients.

41. The Plaintiff has agreed and has offered to provide the Defendants with a fixed and floating first charge on all equipment and asks this court.

42. The Plaintiff also increased the amount of security by approximately \$700,000.00 for a lump sum of \$3,000,000.00 to cover off any possible contingencies where the amounts owing to the Region increase for any reason.

43. The Plaintiff wishes to proceed with the action already commenced in Brampton in August of 2020 as well as the within action.

44. The Plaintiff therefore pleads that it is entitled to the relief claimed, including an interim mandatory order as requested in paragraph 1 of this Statement of Claim.

The Plaintiff proposes that this action be tried at Brampton, Ontario.

DATED: August 23, 2021

KLUG LAW
100 Allstate Parkway
Suite 800
Markham, Ontario
L3R 6H3

Leo Klug
Law Society No. 12452U
leoklug@kluglaw.ca
Telephone: (905) 947-8771
Facsimile: (905) 947-0529

Lawyers for the Plaintiff

Court File No.

156775 ONTARIO INC. cob as D'ANGELO BRANDS - and - THE REGIONAL MUNICIPALITY OF PEEL et al

SUPERIOR COURT OF JUSTICE
Proceedings commenced at **Brampton**

STATEMENT OF CLAIM

KLUG LAW
Barristers & Solicitors
100 Allstate Parkway
Suite 800
Markham, ON L3R 6H3

Leo Klug
Law Society No. 12452U
leoklug@kluglaw.ca
Telephone: (905) 947-8771
Facsimile: (905) 947-0529

Lawyers for the Plaintiff

This is **Exhibit "D"** referred to in the
Affidavit of **Frank D'Angelo**
sworn before me this 13th day of
February, 2023



A Commissioner, etc.



Court File No./N° du dossier du greffe: CV-21-00003482-0000

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Electronically Issued
Délivré par voie électronique : 28-Sep-2021
Brampton

2156775 ONTARIO INC. cob as D'ANGELO BRANDS

Plaintiff

- and -

**THE REGIONAL MUNICIPALITY OF PEEL,
NANDO IANNICCA, ELAINE GILLILAND, STEVEN FANTIN, BILL FORD
and KHAWER RAUF**

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in the court office, **WITHIN TWENTY DAYS** after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER

NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$5,000.00 for costs, within the time for serving and filing your Statement of Defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiff's claim and \$3,500.00 for costs and have the costs assessed by the court.

TAKE NOTICE THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

DATE: September 28, 2021

ISSUED BY:

Local Registrar
7755 Hurontario Street
Brampton, Ontario
L6W 4T6

TO: THE REGIONAL MUNICIPALITY OF PEEL
NANDO IANNICCA
ELAINE GILLILAND
STEVEN FANTIN
BILL FORD
KHAWER RAUF
c/o Ms. Jennifer Bruce
The Regional Municipality of Peel
10 Peel Centre Drive
Brampton, Ontario L6T 4B9

CLAIM

1. The Plaintiff claims:

As against the Defendant, Peel:

- (a) Damages in the amount of \$20,000,000.00 for breach of contract, negligence, bad faith, dishonest conduct and breach of the Defendant, Peel's statutory duty arising out of the supply of water and the discharge of waste water from the Plaintiff's business premises located at 4500 Eastgate Parkway, in the City of Mississauga and arising out of the Defendant, Peel's breach of contract, negligence, bad faith, dishonest conduct and breach of statutory duty arising out of a Sewage Discharge Agreement dated January 1, 2019 entered into between the Plaintiff and the Defendant, Peel;
- (b) A return or repayment to the Plaintiff of the sum of \$2,000,000.00 overcharged by the Defendant, Peel between 2014 and 2021 together with interest thereon at the rate of 1¼% per month and such other sums as may be discovered by the Plaintiff after its audit is completed;
- (c) Full disclosure and an accounting by the Defendant, Peel of all invoices and billings issued and sent by the Region of Peel between 2014 and 2021;
- (d) Full disclosure and an accounting by the Defendant, Peel of all measurements, testing conducted by employees of the Defendant, Peel or by independent laboratories with respect to the quantity of waste water discharged into the Defendant, Peel's sewage system;

- (e) Full disclosure and an accounting of all tests, measurements and reports of the Defendant, Peel's employees and independent laboratories with respect to the measurement of BODs from the Plaintiff's premises from November 1, 2019 to present and to the date of trial and with respect to the aforementioned measurements and reports, that credit be given to the Plaintiff for the amounts paid and interest thereon;
- (f) An order and judgment directing the Commissioner of Public Works for the Region of Peel to conduct an investigation into the billing practices of the Region of Peel and for an order and judgment that the Commissioner authorize a clearly warranted reasonable settlement pursuant to By-law number 53-2010, section 18(6) of the Region of Peel;
- (g) An interlocutory and permanent injunction restraining the Defendant, Peel its employees, agents and all persons provided with a copy of the Order of this court from disconnecting the water supply to the premises at 4500 Eastgate Parkway, Mississauga, Ontario;

The Plaintiff Claims as against the Defendants, Elaine Gilliland, Steven Fantin, Bill Ford and Khawer Rauf:

- (h) Damages in the amount of \$20,000,000.00 for negligence, bad faith, dishonest conduct and breach of their statutory duty arising out of the supply of water and discharge of waste water from the Plaintiff's business premises located at 4500 Eastgate Parkway, in the City of Mississauga and arising out of the Defendants' negligence, bad faith, dishonest conduct and breach of

statutory duty arising out of a Sewage Discharge Agreement dated January 1, 2019 entered into between the Plaintiff and the Defendant, Peel;

The Plaintiff claims as against the Defendant, Nando Iannicca:

- (i) Damages in the amount of \$20,000,000.00 arising out of his abuse of office and malicious conduct on April 24, 2020;

The Plaintiff claims as against all Defendants:

- (j) Exemplary, punitive and aggravated damages in the amount of \$5,000,000.00;
- (k) Prejudgment interest pursuant to the Courts of Justice Act;
- (l) Costs of these proceedings on a full or substantial indemnity basis
- (m) Such further and other relief as to this Honourable Court deems just.

2. The Plaintiff corporation is a manufacturer, co-packer and distributor of beverages. Its plant is located at 4500 Eastgate Parkway, Mississauga, Ontario. The Plaintiff has operated its business at this location for over 15 years.

3. The Defendant, Peel is a municipal corporation incorporated under the laws of the Province of Ontario and is responsible for the delivery of services and infrastructure related to water delivery and waste water treatment. The Defendant, Peel provides water and waste water services to the Plaintiff.

4. The Defendant, Elaine Gilliland is the Director of Waste Water in the Public Works Department of the Regional Municipality of Peel.

5. The Defendant, Steven Fantin is the Director of Operations Support in the Public Works Department of the Regional Municipality of Peel.

6. The Defendant, Bill Ford is an Inspector in the Public Works Department of the Regional Municipality of Peel.

7. The Defendant, Khawer Rauf is the Manager of Billings for the Region of Peel. He has been the Manager since 2016 and prior thereto was the Supervisor Analytical Support for the Region. As the Manager of Billings he was responsible and managed internal and external employees and personnel for the timely and accurate billing services from the Region of Peel which included the billings and invoices sent by the Region to the Plaintiff. As a Supervisor of Analytical Support, he performed a significant role in the billing systems, implementation by the Region, which included the billings and invoices issued to the Plaintiff.

8. The Defendant, Nando Iannicca is the Regional Chair and the Chief Executive Officer of the Regional Municipality of Peel.

9. The Regional Municipality of Peel enacted By-law Number 53-2010. This is a by-law to regulate the discharge of matter into the sanitary and storm sewage systems of the Regional Municipality of Peel and making provision for the establishment of sewer rates and charges on persons for such services or activities, pursuant to the Municipal Act, 2001, S.O. 2001, c. 25. Part 18(6) states:

Where a Customer disputes an invoice, and there is evidence of an error in billing, incorrect meter reading or faulty meter operation, the Commissioner may authorize a clearly warranted reasonable settlement of the account provided the settlement is

thoroughly documented and remains available for audit and reference purposes.

10. The Defendant, Peel entered into a number of Sewage Discharge Agreements with the Plaintiff. Pursuant to these Agreements, the Plaintiff can discharge waste water that is over the limits as set forth in the aforementioned By-law and pay the region to treat the high strength waste water. This is referred to as a surcharge.

11. Paragraphs 2 and 3 of the Sewage Discharge Agreement states:

2. Subject to paragraph 3, the discharge into or in any sanitary sewer, land drainage works, private branch drains or connections to any sanitary sewer of matter by the Company from the said premises containing B.O.D., S.E.M., T.S.S., or P in excess of the By-law limits shall be permitted in accordance with Section 6 of the By-law, and the Company hereby covenants and agrees to pay to The Regional Municipality of Peel a surcharge calculated as follows and payable on a monthly basis.

3. Despite paragraph 2, the Company shall not discharge or deposit or cause or permit the discharge or deposit of matter of a kind, in such quantity or of such concentration listed below:

B.O.D.	-	3,500mg/L
T.S.S.	-	1,000mg/L
P	-	100mg/L

7. In determining the quality of sewage for the purposes of this agreement, the volume of any stormwater or any water which is required to be deducted for the purposes of the By-law shall be deducted and Standard Methods as defined in the By-law shall be used.

12. The Defendant, Peel bills the Plaintiff monthly for charges related to water/waste water/storm water services under account number 58541100 (585 billings) and bills for:

surcharges separately also on a monthly basis under account number 2156ONT00 (215 billings).

13. The 585 water bills are broken down into components for water consumption (based on the inflow meter), wastewater and storm water. The 215 billings are for sewer surcharge. The sewer surcharge is claimed by the Region pursuant to its by-law no. 53-2010 which was passed, in part, to regulate the discharge into the Region's sewage works of prohibited materials over and above certain limits. One of the materials is Biochemical Oxygen Demand (BOD's) having a prescribed limit of 300 mg per litre. In the Plaintiff's manufacture of beverages it uses sugar, some of which is dissolved in the wastewater and which is a BOD.

14. Part I - Definitions (e) provides as follows:

"Biochemical Oxygen Demand" means the five-day biochemical oxygen demand which is the determination of the molecular oxygen utilized during a five-day incubation period for the biochemical degradation of organic material (carbonaceous demand), including the oxygen used to oxidize inorganic material such as sulphides and ferrous iron, and where an inhibiting chemical has been added to prevent ammonia oxidation, determined in accordance with standard Methods;

15. The Plaintiff pleads that the Defendant, Peel has incorrectly and improperly billed the Plaintiff with unwarranted and excessive amounts of money for the sewer discharge volumes (585 billings) since 2014. The Region's calculations are incorrect. The Plaintiff further pleads that the surcharge billings (215 billings) since 2014 are also improper and incorrect and are excessive and unwarranted.

16. The Plaintiff further pleads that the samples that were taken by the Defendant, Peel's employees or representatives were taken in an improper and negligent manner and not in accordance with Standard Methods as defined in paragraph 7 of the Surcharge Agreement. The Plaintiff further pleads that the BOD readings on the enforcement reports from November 2019 until October 2020 were calculated in an improper and negligent manner by the Defendant, Peel's employees and further, the Plaintiff pleads that the inspectors who took samples were inexperienced and did not carry out their mandate in accordance with the proper Standard Methods. Further, the review by the Defendant, Peel's employees on each of the enforcement reports were done improperly and negligently and the BOD numbers inserted in the reports were done in an improper and negligent manner without due care and attention. The Plaintiff further pleads that the improper Bod calculations in the reports were drawn to the Defendant, Peel's attention, the Defendant, Peel acting in bad faith refused to re-visit or correct the reports or to provide the backup primary material to justify their calculations. Commencing November 2020, the Region and its employees have produced corrected and appropriate BOD readings which are substantially similar to the readings taken and produced by the Plaintiff, which has resulted in reasonable and predictable surcharges.

17. The Plaintiff issued a Notice of Application in the Superior Court dated July 31, 2019. The Plaintiff was the Applicant, the City of Mississauga and the Regional Municipality of Peel were the Respondents.

18. In that application, the Plaintiff alleged that the Defendant, Peel repeatedly invoiced the Plaintiff for waste water discharge in amounts that were grossly excessive

and with respect to the surcharge billings, that these charges were excessive and inaccurate.

19. The Defendant, Peel resolved their differences by way of Minutes of Settlement dated December 5, 2019 without any admission of liability by adjusting the Plaintiff's billings by \$695,295.00 as a credit towards the two aforementioned accounts and the Plaintiff released the Region of all claims up to November 22, 2019.

SURCHARGE INVOICES

20. After the Region entered into Minutes of Settlement, it immediately commenced taking samples which resulted in excessive and incorrect BOD readings. These readings are set out in Schedule "A" and Schedule "B" to this Statement of Claim and are compared to the internal lab and Gelda Scientific (an independent laboratory) BOD readings of the Plaintiff. The first Region surcharge was in the amount of \$157,461.06. This invoice arose out of a surcharge from the BOD sample that was taken negligently and improperly by inexperienced employees with the knowledge of and at the direction of Elaine Gilliland, Steven Fantin and Bill Ford.

21. Thereafter, further invoices were issued on a periodic or monthly basis with incorrect figures from BODs and for incorrect and excessive amounts. The invoices herein referred to were compiled and issued and sent out under the direction and supervision of the Defendant, Khawer Rauf.

22. The Region took samples on a monthly basis and issued a Pollution Control Waste Water By-law Enforcement Report which in part contained the Region's reading of B.O.D.s.

23. The Plaintiff maintains its own internal laboratory and tests for B.O.D.s, phosphorous and PH twice a day.

24. The Plaintiff retained Gelda Scientific and Industrial Development Corporation, an independent laboratory to conduct and provide independent laboratory analysis reports.

25. The Plaintiff's internal laboratory reports and the reports from Gelda Scientific were provided to the Defendant, Peel.

26. The Plaintiff states that the Defendant, Peel has over charged the Plaintiff in excess of \$500,000.00 on invoices commencing January 8, 2020 (for the report and BOD reading of November 12, 2019 up to and including the report of October 2020).

27. Annexed hereto as Schedule "A" to this Statement of Claim are the cost calculations based on an average third party Gelda Scientific BOD results in comparison to the Sample BOD taken by the Defendant, Peel. The over charge amounts to \$529,000.00 from November 2019 to February 2021.

28. Annexed hereto as Schedule "B" to this Statement of Claim are similar calculations based on average BOD third party Gelda Scientific and the internal plant laboratory readings in comparison to the BOD readings taken by the Defendant, Peel. Those excess charges between November 2019 and February 2021 total \$565,000.00.

29. In January of 2020, the Plaintiff received the discharge invoice for the month of November 2019 in the amount of \$157,461.06. Management wrote to the Defendants by email dated January 29, 2020 that the surcharge of \$157,464.06 was absolutely not fair and "will put the company into tribulation".

30. The Plaintiff complained until mid March 2020 of this BOD reading and the subsequent BOD readings including February 2020 of 4900 mg/L.

31. By email dated February 6, 2020, Elaine Gilliland, the Director of Wastewater wrote to the Plaintiff, "Right now the November result will stand as I did express to Frank some concerns."

32. The Region sent a Notice of Water Disconnection dated March 11, 2020 signed by the Defendant, Steven Fantin, the Director-Operations Support Public Works. The disconnection date was March 25, 2020 and the amount claimed was \$363,505.07. Representatives of the Plaintiff strenuously objected. On March 11, 2020, the Defendant, Peel agreed to come to the plant to take a variety of samples from different areas of the plant to test BODs. Representatives of the Plaintiff collected the identical samples which were collected every twenty minutes starting at 11:00 a.m. to 13:30 p.m. for a total of ten samples. The Plaintiff attached the Gelda Scientific results for the Plaintiff's samples collected at the same time as the Defendant, Peel. The Plaintiff never received any feed back from the Defendant, Peel regarding the test results of the samples being collected. The test results from Gelda Scientific and the internal lab reports of the Plaintiff showed very low BOD numbers.

33. In March 2019 (a year prior), the Defendant, Peel sent the BOD test results as 11,000 mg/L. The Plaintiff questioned and complained that the results were not correct and the reading was very high. The Defendant, Peel attended and carried out a re-sampling. The Defendant, Peel then revised the results and charges and sent a enforcement report dated March 26, 2019 with the notation "PH violation of by-law. Please investigate and correct". Thereafter the Defendant, Peel reduced their charges. The Defendant, Peel did not send the Plaintiff the revised results.

WATER DISCHARGE INVOICES

34. The Plaintiff states that the water discharge invoices commencing November 2019 are excessive. To date, the Plaintiff estimates that the excessive charges from November 2019 as of August 2020 are approximately \$70,000.00.

35. Commencing November 2019, the Defendant, Peel billed 100% of the water consumed as a discharge fee notwithstanding that 29% to 30% of the water is consumed in the Plaintiff's manufacturing process. In the subsequent year, it requires an expert's report and an appeal by the Plaintiff for a reduction. This is unwarranted and unfair and exhibits bad faith on the part of the Defendant, Peel.

NOTICE OF WATER DISCONNECTION DATED APRIL 13, 2020

36. The Region issued a second Notice of Water Disconnection dated April 13, 2020 and signed by Steven Fantin with a disconnection date of April 27, 2020 and claiming an amount of \$435,064.53. The Plaintiff states that this amount was excessive, exorbitant and arose out of negligent sample taking and testing. The Notice of Disconnection was

issued with the knowledge of and direction of the Defendants, Elaine Gilliland, Steven Fantin, Bill Ford and Khawer Rauf.

37. The Plaintiff pleads that on the morning of Friday, April 24, 2020, Frank D'Angelo telephoned and left an extensive voicemail message for the Defendant, Nando Iannicca, the Chief Executive Officer of the Region of Peel. In that voicemail message Mr. D'Angelo detailed the overcharges that Peel had calculated and invoiced for the BOD surcharges and complained that the surcharges were false, incorrect and excessive. He asked Mr. Iannicca to exercise his reasonable discretion and postpone the water disconnection which was to take place on Monday, April 27, 2020. He explained that there were 200 employees employed with the Plaintiff and they would have to be laid off if there was a water disconnection. Mr. D'Angelo advised Mr. Iannicca that the Plaintiff was suffering financially in the midst of a pandemic in that certain customers were delaying their payments, but they were making payment. He asked for a short extension. Mr. Iannicca did not return the call.

38. Within two hours, the lawyer for the Defendant, Peel responded to Mr. Hemsworth, the lawyer for the Plaintiff as follows:

"Good Afternoon Greg,

I have your last two emails. I have also been advised that Mr. D'Angelo reached out to the Regional Clair this morning, and I have been asked to communicate with you in response.

As has been previously advised, the Region is abiding by the terms of the settlement agreement, that were endorsed by Regional Council. If your client is able to make payment of the remaining outstanding amounts today, please advise me of same and I will be able to communicate with the operations staff scheduled to effect the disconnection on Monday."

39. The Plaintiff pleads that the reply from Mr. Iannicca through his lawyer was malicious and a flagrant abuse of his public office and as such, he is personally liable.

The Plaintiff pleads that Section 18(6) of By-law 53-2020 provides:

Where a Customer disputes an invoice, and there is evidence of an error in billing, incorrect meter reading or faulty meter operation, the Commissioner may authorize a clearly warranted reasonable settlement of the account provided the settlement is thoroughly documented and remains available for audit and reference purposes.

Mr. Iannicca had an obligation and duty to make enquiries from the Region employees and in particular, the other three Defendants to initiate an inquiry or investigation that were being made on the allegations of overcharging. He had an obligation to contact the Commissioner of Works and delay water disconnection as contemplated by Section 18(6) of the said By-law.

40. The Plaintiff complained on many occasions, both verbally and in writing of the excessive charges. The Plaintiff further pleads that the Defendants, Elaine Gilliland, Steven Fantin and Bill Ford were dishonest, acted in bad faith and were negligent and are personally liable in that:

- (a) each of these Defendants should have reviewed the results of the samples that were taken in light of the great variation of discrepancy commencing in November 2019 where there was an excessive charge for BODs in the amount of \$157,000.00 and in the following months;

(b) they should have caused an investigation or a re-sampling by experienced sample takers to ensure that the samples that were taken, which gave rise to excessive charges were accurate and correct, especially in light of the BOD results supplied by the Plaintiff;

(c) they had a duty to inspect and insure that the sampling equipment that was supplied was in proper operating condition and that the samples that were taken were taken by qualified employees. They further had a duty to ensure that there was a proper chain of custody between the time of sample taking and when the samples were submitted to the independent laboratory for testing;

(d) these Defendants continued to maintain the validity of the BOD readings and the surcharges when they knew or ought to have known that the BOD readings were inaccurate, incorrect and excessive and that the surcharges arising therefrom were similarly inaccurate, incorrect and excessive;

(e) These Defendants worked in concert with and directed the Defendant, Khawer Rauf to compile, issue and deliver invoices for excessive and incorrect amounts.

41. The Defendant, Khawer Rauf is the Billing Manager for the Region of Peel. He is responsible for the billing practices and invoices. Khawer Rauf was and is negligent in carrying out his duties. He has also acted in bad faith. The following are the particulars of negligence and bad faith:

- (a) he developed invoicing methods and procedures that allowed and permitted excess billings;
- (b) he worked in concert with the Defendants Fantin and Gilliland in producing and issuing invoices for excessive and incorrect amounts to the Plaintiff;
- (c) he permitted invoices to be sent to the Plaintiff when he knew or ought to have known that there were errors in the charges and in the backup material;
- (d) he neglected or refused to supervise employees under his supervision who were responsible for compiling and issuing invoices.

42. In August 2021, D'Angelo Brands discovered irregularities and errors in the billing practices and procedures and in the invoices sent by the Region of Peel. D'Angelo Brands advised the Region that it was undertaking an audit of the billing practices and invoices. D'Angelo Brands conducted an audit of the invoices from 2015 to the present and is continuing to carry out an audit for 2014. D'Angelo Brands discovered irregularities and excessive billings. Particulars were provided to the Region of Peel including the Defendant, Khawer Rauf. They are as follows:

Year	Excessive charges
2015	\$377,229.60
2016	\$377,316.05
2017	Approximately \$240,000.00
2018	\$344,302.71

2019	\$481,000.00
2020	\$83,368.00
TOTAL	\$1,903,216.36

43. D'Angelo Brands is continuing to conduct an audit for 2014 and other years and are discovering irregularities, overbillings and duplicate billings that were hidden from the Plaintiff by the Region of Peel. D'Angelo Brands will assert an additional claim for damages once these audits are completed. These irregularities, overbilling and duplicate billing are the responsibility of the Defendant, Khawer Rauf. They also are the responsibility of the Defendants, Fantin, Gilliland and Ford. The personal Defendants have worked in concert to create these irregular excessive billings. Such conduct deserves punitive and exemplary damages.

44. The Plaintiff has asked for disclosure and an accounting of these excess charges. The Plaintiff has further asked that they be given a credit or a refund. The Defendant, Peel has refused to respond to this request.

45. The Plaintiff, through its lawyer has invoked and requested an investigation any reasonable settlement pursuant to Section 18(6) of By-law number 53-2010 of the Region of Peel. The Defendant, Peel has refused or neglected to respond.

46. The Region has disconnected the water at the Plaintiff's facility as follows:

- From April 27, 2020 to May 1, 2020 (four days)
- From August 19, 2020 to August 22, 2020 (four days)

- From December 11, 2020 to December 31, 2020 (twenty days)
- From March 18, 2021 to March 27, 2021 (ten days)
- From April 14, 2021 to April 20, 2021 (six days)
- From August 4, 2021 to August 6, 2021 (two days)
- From September 21, 2021 to September 21, 2021 (three hours)

47. In August of 2020, the Defendant, Peel claimed overdue amounts of \$152,667.61. The water was turned off and the plant closed. The Plaintiff brought proceedings in this court before the Honourable Justice Emery who dismissed the motion for injunctive relief. The Plaintiff immediately raised the money, paid the amount that was owing and the water was reconnected. The amount being claimed of \$152,667.61 was excessive, overstated and made in bad faith. In both instances, in April and in August, the disconnect was made arbitrarily and in bad faith.

48. The Defendant, Peel served a further Notice of Water Disconnection dated September 9, 2020 for a past due amount of \$113,908.03. The disconnection date is September 23, 2020. The Plaintiff has paid under protest the sum of \$71,000.00 and it intends to pay the balance before the disconnection date of September 23, 2020.

49. The Region issued a further Notice of Water Disconnection dated November 17, 2020 with a disconnection date of December 1, 2020. The total amount being claimed as being past due was \$221,908.07. This amount was excessive and inaccurate. The Region issued a Notice of Water Disconnection dated March 4, 2021 with a disconnection date of

March 18, 2021, claiming an amount as being past due in default of Minutes of Settlement in the amount of \$65,421.76.

50. The Plaintiff requested short extensions to pay the sums being claimed in the aforementioned Notice of Disconnection. The Region refused to grant extensions and consequently the water was disconnected.

DAMAGES

51. The Plaintiff pleads that the BOD surcharges were excessive and they financially crippled the Plaintiff and it was forced to:

- (a) pay the excessive BOD charges, under protest, on the threat of water disconnection;
- (b) the Plaintiff was also forced to pay arrears of municipal taxes that were added to the tax roll arising out of the Minutes of Settlement made in November 2019;
- (c) pay bailiff fees in the amount of 5% and excessive rates of 1¼% per month. The Plaintiff has paid the sum of \$15,000.00 every two weeks to the bailiff. The City of Mississauga refused to take payment. The Plaintiff has been forced to pay the bailiff 5% of all amounts paid and interest charges that are excessive. The Plaintiff has asked for a reduction of the interest rates. The Defendant, Peel, through Mississauga has refused.

52. The Plaintiff states that the Region, pursuant to the Municipal Act, had the authority to apply the outstanding arrears and charges imposed to the tax roll of the property. A bailiff was hired to collect the total amount in excess of \$2,200,000.00. This bailiff added interest charges as a penalty of \$257,000.00 and bailiff's fees, including HST in the amount of \$135,000.00. The bailiff was hired in August of 2020 and immediately served notice on the landlord attorning rents. The Plaintiff was forced to pay all rental payments that would otherwise go to the landlord, to the bailiff, causing severe financial distress to the Plaintiff. To this date, the landlord has not terminated the lease. The aforementioned charges of interest and bailiff's fees are totally unwarranted and must be returned or refunded to the Plaintiff.

53. The Plaintiff further pleads that because of the financial strangulation caused by the Defendant, Peel, it can no longer bottle and package vegetable oil and pure apple juice. The Plaintiff has lost significant sales and profits, the particulars of which have been provided to the lawyer for the Defendant, Peel. The Plaintiff claims damages for loss of profits arising out of the loss of sales and profits in the amount of \$10,000,000.00.

54. The Plaintiff states that the following are partial damages suffered as a direct consequence of the Defendant's overbillings and water disconnect are as follows:

(a)	The overcharges for the surcharge based on Schedule I	\$500,000.00
(b)	The overcharges on the failure to give credit for consumption of 29% and the billing of wastewater discharge at 100%	\$100,000.00

(c)	The Plaintiff is a co-packer. It packages and bottles beverages for national brands. The revenue that it lost is profit. Between April 27, 2020 and May 1, 2020, the loss of revenue is	\$650,000.00
(d)	The loss of revenue and profit in August of 2020	\$512,000.00
	TOTAL	\$1,762,000.00

55. As set forth in paragraph 46, the water was disconnected for a period of 38½ days between December 11, 2020 up to and including September 21, 2021. The Plaintiff has lost profits on a per diem basis of \$115,000.00 per day. The Plaintiff therefore claims additional damages in the amount of \$4,427,500.00.

56. The Plaintiff had a successful reputation and business in packaging and selling vegetable oil to retailers across Canada. Given the financial strangulation imposed by the Region, this business has been lost. The Plaintiff has provided particulars of losses which to date approximates \$3,000,000.00 in lost profits. The Plaintiff further pleads that it will continue to lose profits from the loss of sales of vegetable oil, which the Plaintiff estimates in the amount of \$5,000,000.00.

57. The Plaintiff's primary business started 30 years ago was the packaging and sales of pure apple juice and pure prune juice. This business has been destroyed by the financial strangulation of the Region. The Plaintiff has lost profits to date in the amount of \$1,000,000.00 and loss of prospective profits in the amount of \$5,000,000.00.

58. The Plaintiff has been carrying inventory for apple juice, such as labels, trays, bottles and for prune nectar juice. This inventory may be obsolete and had a value of

\$1,000,000.00. The Plaintiff therefore claims damages in this amount from the Region. The Plaintiff states that given the nature of the manufacturing and processing that it undertakes, it was necessary to undergo structural changes to the building. Given the financial strangulation of the Plaintiff by the Defendant, Peel, the landlord financed the structural changes in an amount in excess of \$1,000,000.00 in the fall of 2018.

59. The Plaintiff states that the Region is responsible for all acts of the bailiff. The Plaintiff further states that the Region is responsible for all acts of the Defendants, Elaine Gilliland, Steven Fantin and Bill Ford. The Plaintiff further states that the Region is responsible for all acts of the Defendant, Nando Iannicca.

60. The Plaintiff further states that all Defendants have carried out their actions with an intent and motive to harm the Plaintiff. Their actions have persisted over a significant period of time and they have been made aware of the serious repercussions to the Plaintiff arising out of their actions. The Plaintiff states that the actions of all Defendants are malicious, high-handed and deserve the censure of this court. In these circumstances where the Plaintiff is in the midst of an unprecedented COVID-19 pandemic, punitive, exemplary and aggravated damages should be awarded in the amount of \$5,000,000.00.

61. The Plaintiff cannot sustain a further closure of the plant. At the same time, the Defendant unjustifiably refuses to provide full disclosure of all tests, analysis done and all back up material to the reports issued unless ordered otherwise by this court. The Plaintiff will suffer serious irreparable harm from a plant closure and employees will be put out of work.

62. The Plaintiff has commenced proceedings against the Region of Peel in action number CV-20-00002978-0000 arising out of a Notice of Action and Statement of Claim issued from this court. The Plaintiff pleads that the previous action issued and the within action should be consolidated into one action, being the present action.

The Plaintiff proposes that this action be tried in Brampton, Ontario.

DATED: September 28, 2021

KLUG LAW
Barristers and Solicitors
100 Allstate Parkway
Suite 800
Markham, Ontario L3R 6H3

Leo Klug
Law Society No. 12452U
leoklug@kluglaw.ca
Telephone: (905) 947-8771
Facsimile: (905) 947-0529

Lawyer for the Plaintiff

Cost calculation based on average BOD third party Gelda Scientific & Plant Lab Versus City Sample BOD taken by Region of Peel (chart 6 of 7)

Date	Gelda & Internal Lab BODs test	Region of Peel BODs test	Weighting Factor (71% surcharge factor)	\$ Region Surcharge for BODs	\$ Surcharge Should be paid for \$ Region over charged
November-19	562 mg/L	6000 mg/L	3537	\$157,461.06	(\$156,383.06)
December-19	743 mg/L	1500 mg/L	2390	\$20,952.66	(\$19,679.66)
January-20	927 mg/L	1100 mg/L	14639	\$14,937.35	(\$1,259.00)
February-20	1365 mg/L	4900 mg/L	19689	\$113,030.19	\$25,722.00
March-20	712 mg/L	1000 mg/L	16144	\$14,350.51	\$8,139.00
April-20	1375 mg/L	3900 mg/L	18403	\$69,015.13	\$24,245.00
May-20	902 mg/L	890 mg/L	17323	\$13,091.13	\$12,813.00
June-20	1287 mg/L	2500 mg/L	17419	\$41,801.40	\$21,090.00
July-20	1321 mg/L	2400 mg/L	18797	\$49,775.13	\$23,519.00
August-20	800 mg/L	5100 mg/L	20280	\$119,722.86	\$20,810.00
September-20	720 mg/L	1200 mg/L	22742	\$25,451.29	\$8,200.00
October-20	1270 mg/L	3800 mg/L	21634	\$93,205.55	\$20,854.00
November-20	230 mg/L	240 mg/L	22145	\$0.00	\$0.00
December-20	825 mg/L	880 mg/L	22977	\$16,635.54	\$14,752.00
January-21	720 mg/L	810 mg/L	17843	\$14,966.00	\$8,420.00
February-21	710 mg/L	918 mg/L	19162	\$12,836.84	\$8,100.00
Total Region Overcharged					(\$565.3)

SCHEDULE B

SCHEDULE A

Cost calculation based on average third party Gelda Scientific BOD Versus City Sample BOD taken by Region of Peel (chart 5 of 7)

Date	Gelda & Internal Lab BODs test	Region of Peel BODs test	Outgoing wastewater to city m3	(72% shrinkage Factor)	\$ Region Surcharge for BODs	\$ Surcharge Should be paid for	\$ Region over charged	
November-19	537 mg/L	6000 mg/L	3537		\$157,451.06	\$1,006.00	(\$156,455.06)	
December-19	819 mg/L	1500 mg/L	2390		\$20,952.66	\$1,488.00	(\$19,464.66)	
January-20	1070 mg/L	1100 mg/L	14639		\$14,937.35	\$13,845.00	(\$1,092.35)	
February-20	1855 mg/L	4900 mg/L	19689		\$116,030.19	\$37,532.00	(\$78,498.19)	
March-20	738 mg/L	1000 mg/L	16144		\$14,350.51	\$8,674.00	(\$5,676.51)	
April-20	1798 mg/L	3900 mg/L	18403		\$69,015.13	\$32,499.00	(\$36,516.13)	
May-20	1022 mg/L	890 mg/L	17323		\$13,091.13	\$15,363.00	\$2,271.87	
June-20	1550 mg/L	2500 mg/L	17419		\$41,801.40	\$26,730.00	(\$15,071.40)	
July-20	1580 mg/L	2400 mg/L	18797		\$48,775.13	\$29,537.00	(\$19,238.13)	
August-20	836 mg/L	5100 mg/L	20280		\$119,722.86	\$14,224.00	(\$105,498.86)	
September-20	735 mg/L	1200 mg/L	22742		\$25,451.79	\$8,139.00	(\$17,312.79)	
October-20	1380 mg/L	3800 mg/L	21634		\$93,205.95	\$23,519.00	(\$69,686.95)	
November-20	890 mg/L	240 mg/L	22145		\$0.00	\$0.00	\$0.00	
December-20	871 mg/L	880 mg/L	22977		\$16,635.54	\$16,108.00	(\$527.54)	
January-21	730 mg/L	810 mg/L	17843		\$14,366.00	\$8,674.00	(\$5,692.00)	
February-21	725 mg/L	918 mg/L	19162		\$12,836.84	\$8,426.00	(\$4,410.84)	
Total Region Overcharged							(\$529,555.55)	

Court File No.

2156775 ONTARIO INC. cob as D'ANGELO BRANDS - and - THE REGIONAL MUNICIPALITY OF PEEL et al

SUPERIOR COURT OF JUSTICE
Proceedings commenced at Brampton

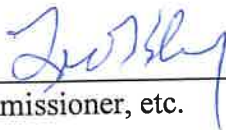
STATEMENT OF CLAIM

KLUG LAW
Barristers & Solicitors
100 Allstate Parkway
Suite 800
Markham, ON L3R 6H3

Leo Klug
Law Society No. 12452U
leoklug@kluglaw.ca
Telephone: (905) 947-8771
Facsimile: (905) 947-0529

Lawyer for the Plaintiff

This is **Exhibit "E"** referred to in the
Affidavit of **Frank D'Angelo**
sworn before me this 13th day of
February, 2023



A Commissioner, etc.

July 11, 2019

VIA REGISTERED MAIL

#2156776 Ontario Inc., O/A D'Angelo Brands
4500 Eastgate Parkway
Mississauga, ON L4W 3W6

Eastgate Group Inc./Rovinelli Construction Inc.
4540 Eastgate Parkway, Unit 8
Mississauga, ON L4W 3W6

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

NOTICE OF WATER DISCONNECTION

Account Numbers: 585411000 Water/Wastewater/Stormwater
2156ONT001 Sewer Surcharge Billings

Service Address: 4500 Eastgate Parkway,
Mississauga, ON L4W 3W6

Disconnection Date: **August 15, 2019**

Amount Past Due
(as of July 4, 2019): **\$2,125,973.53**

An outstanding balance of \$256,131.00 remains unpaid on the above property for the accounts 585411000 (water/wastewater/stormwater) and 2156ONT001 (sewer surcharge billings).

To date, a total amount of \$1,869,842.53 has been transferred to the property tax roll due to non-payment of arrears on these accounts. Currently, the amount on the property tax roll remains unpaid.

Under the *Municipal Act, 2001*, S.O. c.25 section 81, the Region of Peel has the authority to shut off the supply of water to land if fees or charges payable by the owners or occupants of the land are overdue. Pursuant to Region of Peel By-law 53-2010 section 18(5) and Region of Peel By-law 6-2017 sections 41 and 46 (5) and (6), if a wastewater and/or water charge remains unpaid for an unreasonable period as determined by the Commissioner, the Region may, after delivering a reasonable Notice of Water Shut-Off/Discontinuation, shut off the water to the Customer's land, building or premises.

This is to notify you that your utility service to 4500 Eastgate Parkway will be disconnected as of the date shown above unless payment, or satisfactory arrangement for payment of the total amount past due of \$2,125,973.53 is made before this date. Payments for amounts on the tax roll must be made directly to the Municipal Tax Roll Department, including any additional administrative charges and interest that have been applied by the Municipal Tax Department. Any payments made to The Regional Municipality of Peel for past due amounts not yet added to the tax roll must be made by bank draft.

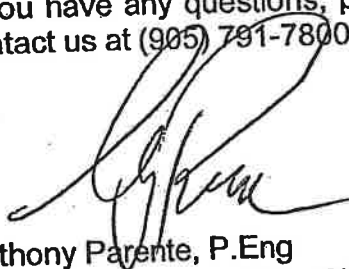
Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

There will be a disconnection charge of \$90 and a reconnection charge of \$90 applied to your account in the event of the disconnection.

If you have any questions, please email: utilityreceivables@peelregion.ca or contact us at (905) 791-7800 ext. 3037.



Anthony Parente, P.Eng
General Manager – Water/Wastewater (Acting)
Public Works
Region of Peel

Cc: Andrew Farr, Commissioner Public Works (Acting)

March 11, 2020

VIA REGISTERED MAIL

#2156776 Ontario Inc., O/A D'Angelo Brands
4500 Eastgate Parkway
Mississauga, ON L4W 3W6

Eastgate Group Inc./Rovinelli Construction Inc.
4540 Eastgate Parkway, Unit 8
Mississauga, ON L4W 3W6

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

NOTICE OF WATER DISCONNECTION

Account Numbers: 585411000 Water/Wastewater/Stormwater
2156ONT001 Sewer Surcharge Billings

Service Address: 4500 Eastgate Parkway,
Mississauga, ON L4W 3W6

Disconnection Date: **March 25, 2020**

Amount Past Due in
default of Minutes of
Settlement (as of March 10, 2020): **\$363,505.07**

An outstanding balance of \$363,505.07 remains unpaid on the above property for the accounts 585411000 (water/wastewater/stormwater) and 2156ONT001 (sewer surcharge billings), contrary to the Minutes of Settlement executed by D'Angelo on November 22, 2020. The terms of the Minutes of Settlement require D'Angelo to pay all invoices for services on accounts 585411000 and 2156ONT001 delivered after November 20, 2019, by bank draft and in full on or before the payment due dates.

To date, a total amount of \$2,270,594.16 has been transferred to the property tax roll due to non-payment of arrears on these accounts. Currently, the amount on the property tax roll remains unpaid.

Under the *Municipal Act, 2001*, S.O. c.25 section 81, the Region of Peel has the authority to shut off the supply of water to land if fees or charges payable by the owners or occupants of the land are overdue. Pursuant to Region of Peel By-law 53-2010 section 18(5) and Region of Peel By-law 6-2017 sections 41 and 46 (5) and (6), if a wastewater and/or water charge remains unpaid for an unreasonable period as determined by the Commissioner, the



Region may, after delivering a reasonable Notice of Water Shut-Off/Discontinuation, shut off the water to the Customer's land, building or premises.

This is to notify you that your utility service to 4500 Eastgate Parkway will be disconnected as of the date shown above unless payment by bank draft of the amount past due of \$363,505.07 is made before this date.

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

There will be a disconnection charge of \$90 and a reconnection charge of \$90 applied to your account in the event of the disconnection.

If you have any questions, please email: jennifer.bruce@peelregion.ca or contact us at (905) 791-7800 ext. 4367.

Steve Fantin
Director – Operations Support, Public Works
Region of Peel

Cc: Andrew Farr, Commissioner Public Works (Acting)

April 13, 2020

VIA REGISTERED MAIL

#2156776 Ontario Inc., O/A D'Angelo Brands
4500 Eastgate Parkway
Mississauga, ON L4W 3W6

Eastgate Group Inc./Rovinelli Construction Inc.
4540 Eastgate Parkway, Unit 8
Mississauga, ON L4W 3W6

Public Works

10 Peel Centre Dr.
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Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

NOTICE OF WATER DISCONNECTION

Account Numbers: 585411000 Water/Wastewater/Stormwater
2156ONT001 Sewer Surcharge Billings

Service Address: 4500 Eastgate Parkway,
Mississauga, ON L4W 3W6

Disconnection Date: April 27, 2020

**Amount Past Due in
default of Minutes of
Settlement (as of April 13, 2020):** \$435,064.53

An outstanding balance of \$435,064.53 remains unpaid on the above property for the accounts 585411000 (water/wastewater/stormwater) and 2156ONT001 (sewer surcharge billings), contrary to the Minutes of Settlement executed by D'Angelo on November 22, 2020. The terms of the Minutes of Settlement require D'Angelo to pay all invoices for services on accounts 585411000 and 2156ONT001 delivered after November 20, 2019, by bank draft and in full on or before the payment due dates.

To date, a total amount of \$2,270,594.16 has been transferred to the property tax roll due to non-payment of arrears on these accounts. Currently, the amount on the property tax roll remains unpaid.

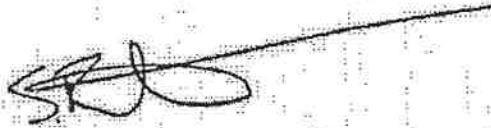
Under the *Municipal Act, 2001*, S.O. c.25 section 81, the Region of Peel has the authority to shut off the supply of water to land if fees or charges payable by the owners or occupants of the land are overdue. Pursuant to Region of Peel By-law 53-2010 section 18(5) and Region of Peel By-law 6-2017 sections 41 and 46 (5) and (6), if a wastewater and/or water charge remains unpaid for an unreasonable period as determined by the Commissioner, the

Region may, after delivering a reasonable Notice of Water Shut-Off/Discontinuation, shut off the water to the Customer's land, building or premises.

This is to notify you that your utility service to 4500 Eastgate Parkway will be disconnected as of the date shown above unless payment by bank draft of the amount past due of \$435,064.53 is made before this date.

There will be a disconnection charge of \$90 and a reconnection charge of \$90 applied to your account in the event of the disconnection.

If you have any questions, please email: jennifer.bruce@peelregion.ca or contact us at (905) 791-7800 ext. 4367.



Steve Fantin
Director – Operations Support, Public Works
Region of Peel

Cc: Andrew Farr, Commissioner Public Works (Acting)

Public Works

10 Peel Centre Dr.
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L6T 4B9
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peelregion.ca

August 5, 2020

VIA REGISTERED MAIL

#2156776 Ontario Inc., O/A D'Angelo Brands
4500 Eastgate Parkway
Mississauga, ON L4W 3W6

Eastgate Group Inc./Rovinelli Construction Inc.
4540 Eastgate Parkway, Unit 8
Mississauga, ON L4W 3W6

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

NOTICE OF WATER DISCONNECTION

Account Numbers: 585411000 Water/Wastewater/Stormwater
2156ONT001 Sewer Surcharge Billings

Service Address: 4500 Eastgate Parkway,
Mississauga, ON L4W 3W6

Disconnection Date: **August 19, 2020**

**Amount Past Due in
default of Minutes of
Settlement (as of
August 5, 2020):** **\$152,667.61**

An outstanding balance of \$152,667.61 remains unpaid on the above property for the accounts 585411000 (water/wastewater/stormwater) and 2156ONT001 (sewer surcharge billings), contrary to the Minutes of Settlement executed by D'Angelo on November 22, 2020. The terms of the Minutes of Settlement require D'Angelo to pay all invoices for services on accounts 585411000 and 2156ONT001 delivered after November 20, 2019, by bank draft and in full on or before the payment due dates.

To date, a total amount of \$2,270,594.16 has been transferred to the property tax roll due to non-payment of arrears on these accounts. Currently, the amount on the property tax roll remains unpaid.

Under the *Municipal Act, 2001*, S.O. c.25 section 81, the Region of Peel has the authority to shut off the supply of water to land if fees or charges payable by the owners or occupants of the land are overdue. Pursuant to Region of Peel By-law 53-2010 section 18(5) and Region of Peel By-law 6-2017 sections 41 and 46 (5) and (6), if a wastewater and/or water charge remains

unpaid for an unreasonable period as determined by the Commissioner, the Region may, after delivering a reasonable Notice of Water Shut-Off/Discontinuation, shut off the water to the Customer's land, building or premises.

This is to notify you that your utility service to 4500 Eastgate Parkway will be disconnected as of the date shown above unless payment by bank draft of the amount past due of \$152,667.61 is made before this date.

There will be a disconnection charge of \$90 and a reconnection charge of \$90 applied to your account in the event of the disconnection.

If you have any questions, please contact Jennifer Bruce by email at jennifer.bruce@peelregion.ca or by telephone at (437) 774-4575.

Public Works

10 Peel Centre Dr.
Suite A
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L6T 4B9
tel: 905-791-7800

peelregion.ca


Steve Fantin
Director – Operations Support, Public Works
Region of Peel

Cc: Andrew Farr, Commissioner Public Works (Acting)

September 9, 2020

VIA REGISTERED MAIL

#2156776 Ontario Inc., O/A D'Angelo Brands
4500 Eastgate Parkway
Mississauga, ON L4W 3W6

Public Works

10 Peel Centre Dr.
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tel: 905-791-7800

peelregion.ca

Eastgate Group Inc./Rovinelli Construction Inc.
4540 Eastgate Parkway, Unit 8
Mississauga, ON L4W 3W6

NOTICE OF WATER DISCONNECTION

Account Numbers: 585411000 Water/Wastewater/Stormwater
2156ONT001 Sewer Surcharge Billings

Service Address: 4500 Eastgate Parkway,
Mississauga, ON L4W 3W6

Disconnection Date: **September 23, 2020**

Amount Past Due in
default of Minutes of
Settlement (as of
September 8, 2020): **\$113,908.03**

An outstanding balance of \$113,908.03 remains unpaid on the above property for the accounts 585411000 (water/wastewater/stormwater) and 2156ONT001 (sewer surcharge billings), contrary to the Minutes of Settlement executed by D'Angelo on November 22, 2019. The terms of the Minutes of Settlement require D'Angelo to pay all invoices for services on accounts 585411000 and 2156ONT001 delivered after November 20, 2019, by bank draft and in full on or before the payment due dates.

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Public Works

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Brampton, ON
L6T 4B9
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peelregion.ca

This is to notify you that your utility service to 4500 Eastgate Parkway will be disconnected as of the date shown above unless payment by bank draft of the amount past due of \$113,908.03 is made before this date.

There will be a disconnection charge of \$90 and a reconnection charge of \$90 applied to your account in the event of the disconnection.

If you have any questions, please contact Jennifer Bruce by email at jennifer.bruce@peelregion.ca or by telephone at (437) 774-4575.



Steve Fantin
Director – Operations Support, Public Works
Region of Peel

Cc: Andrew Farr, Commissioner Public Works (Acting)

October 2, 2020

VIA REGISTERED MAIL

#2156776 Ontario Inc., O/A D'Angelo Brands
4500 Eastgate Parkway
Mississauga, ON L4W 3W6

Public Works

10 Peel Centre Dr.
Suite A
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L6T 4B9
tel: 905-791-7800

peelregion.ca

Eastgate Group Inc./Rovinelli Construction Inc.
4540 Eastgate Parkway, Unit 8
Mississauga, ON L4W 3W6

NOTICE OF WATER DISCONNECTION

Account Numbers: 585411000 Water/Wastewater/Stormwater
2156ONT001 Sewer Surcharge Billings

Service Address: 4500 Eastgate Parkway,
Mississauga, ON L4W 3W6

Disconnection Date: **October 16, 2020**

**Amount Past Due in
default of Minutes of
Settlement (as of
October 2, 2020): \$129,146.66**

An outstanding balance of \$129,146.66 remains unpaid on the above property for the accounts 585411000 (water/wastewater/stormwater) and 2156ONT001 (sewer surcharge billings), contrary to the Minutes of Settlement executed by D'Angelo on November 22, 2019. The terms of the Minutes of Settlement require D'Angelo to pay all invoices for services on accounts 585411000 and 2156ONT001 delivered after November 20, 2019, by bank draft and in full on or before the payment due dates.

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Public Works

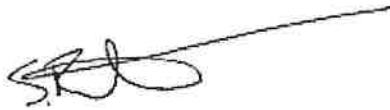
10 Peel Centre Dr.
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L6T 4B9
tel: 905-791-7800

peelregion.ca

This is to notify you that your utility service to 4500 Eastgate Parkway will be disconnected as of the date shown above unless payment by bank draft of the amount past due of \$129,146.66 is made before this date.

There will be a disconnection charge of \$90 and a reconnection charge of \$90 applied to your account in the event of the disconnection.

If you have any questions, please contact Jennifer Bruce by email at jennifer.bruce@peelregion.ca or by telephone at (437) 774-4575.



Steve Fantin
Director – Operations Support, Public Works
Region of Peel

Cc: Andrew Farr, Commissioner Public Works (Acting)

November 17, 2020

VIA REGISTERED MAIL

#2156776 Ontario Inc., O/A D'Angelo Brands
4500 Eastgate Parkway
Mississauga, ON L4W 3W6

Public Works

10 Peel Centre Dr.
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peelregion.ca

Eastgate Group Inc./Rovinelli Construction Inc.
4540 Eastgate Parkway, Unit 8
Mississauga, ON L4W 3W6

NOTICE OF WATER DISCONNECTION

Account Numbers: 585411000 Water/Wastewater/Stormwater
2156ONT001 Sewer Surcharge Billings

Service Address: 4500 Eastgate Parkway,
Mississauga, ON L4W 3W6

Disconnection Date: **December 01, 2020**

**Amount Past Due in
default of Minutes of
Settlement (as of
October 2, 2020): \$221,908.07**

An outstanding balance of \$221,908.07 remains unpaid on the above property for the accounts 585411000 (water/wastewater/stormwater) and 2156ONT001 (sewer surcharge billings), contrary to the Minutes of Settlement executed by D'Angelo on November 22, 2019. The terms of the Minutes of Settlement require D'Angelo to pay all invoices for services on accounts 585411000 and 2156ONT001 delivered after November 20, 2019, by bank draft and in full on or before the payment due dates.

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Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

This is to notify you that your utility service to 4500 Eastgate Parkway will be disconnected as of the date shown above unless payment by bank draft of the amount past due of \$221,908.07 is made before this date.

There will be a disconnection charge of \$90 and a reconnection charge of \$90 applied to your account in the event of the disconnection.

If you have any questions, please contact Jennifer Bruce by email at jennifer.bruce@peelregion.ca or by telephone at (437) 774-4575.



Steve Fantin
Director – Operations Support, Public Works
Region of Peel

Cc: Andrew Farr, Commissioner Public Works (Acting)

This is **Exhibit "F"** referred to in the
Affidavit of **Frank D'Angelo**
sworn before me this 13th day of
February, 2023


A Commissioner, etc.

SCHEDULE A

Cost calculation based on average third party Gelda Scientific BOD Versus City Sample BOD taken by Region of Peel (chart 5 of 7)

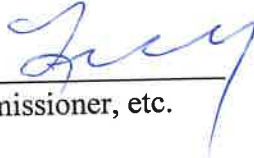
Date	Gelda & Internal LAB BODS test	Region of Peel BODS test	Outgoing wastewater to city ms (71% shrinkage factor)	\$ Region Surcharge for BODS	\$ Surcharge Should be paid for	\$ Region over charged
November-19	537 mg/L	6000 mg/L	3587	\$157,461.06	\$1,006.00	(\$156,455.06)
December-19	819 mg/L	1500 mg/L	2390	\$20,952.66	\$1,488.00	(\$19,464.66)
January-20	1070 mg/L	1100 mg/L	14639	\$14,937.35	\$13,845.00	(\$1,092.35)
February-20	1355 mg/L	4900 mg/L	19689	\$113,030.19	\$37,532.00	(\$75,498.19)
March-20	738 mg/L	1000 mg/L	16144	\$14,350.51	\$8,674.00	(\$5,676.51)
April-20	1738 mg/L	3300 mg/L	18403	\$69,015.13	\$32,439.00	(\$36,576.13)
May-20	1022 mg/L	890 mg/L	17923	\$13,091.13	\$15,363.00	\$2,271.87
June-20	1550 mg/L	2500 mg/L	17419	\$41,801.40	\$26,730.00	(\$15,071.40)
July-20	1580 mg/L	2400 mg/L	18797	\$48,775.13	\$29,537.00	(\$19,238.13)
August-20	836 mg/L	5100 mg/L	20280	\$119,722.86	\$14,224.00	(\$105,498.86)
September-20	735 mg/L	1200 mg/L	22742	\$25,451.29	\$8,139.00	(\$17,312.29)
October-20	1380 mg/L	3800 mg/L	21634	\$93,205.55	\$23,519.00	(\$69,686.55)
November-20	890 mg/L	290 mg/L	22145	\$0.00	\$0.00	\$0.00
December-20	871 mg/L	880 mg/L	22977	\$16,635.54	\$16,108.00	(\$527.54)
January-21	730 mg/L	810 mg/L	17843	\$14,366.00	\$8,674.00	(\$5,692.00)
February-21	725 mg/L	918 mg/L	19162	\$12,836.84	\$8,426.00	(\$4,410.84)
Total Region Overcharged						(\$529.14)

Cost calculation based on average BOD third party Gelda Scientific & Plant Lab Versus City Sample BOD taken by Region of Peel (chart 6 of 7)

Date	Gelda & Internal LAB BODs test:	Region of Peel BODs test:	Comparison, relative to City and (71% shrinkage factor)	\$ Region Surcharge for BODs	\$ Surcharge Should be paid for	\$ Region over charged
November-19	562 mg/L	6000 mg/L	3537	\$157,461.06	\$1,108.00	(\$156,353.06)
December-19	743 mg/L	1500 mg/L	2390	\$20,952.66	\$1,273.00	(\$19,679.66)
January-20	927 mg/L	1100 mg/L	14639	\$14,937.35	\$11,259.00	(\$3,678.35)
February-20	1365 mg/L	4900 mg/L	19689	\$113,030.19	\$25,722.00	(\$87,308.19)
March-20	712 mg/L	1000 mg/L	16144	\$14,350.51	\$8,139.00	(\$6,211.51)
April-20	1375 mg/L	3300 mg/L	18403	\$69,015.13	\$24,245.00	(\$44,770.13)
May-20	902 mg/L	890 mg/L	17323	\$13,091.13	\$12,813.00	(\$278.13)
June-20	1287 mg/L	2500 mg/L	17419	\$41,801.40	\$21,090.00	(\$20,711.40)
July-20	1321 mg/L	2400 mg/L	18797	\$48,775.13	\$23,519.00	(\$25,256.13)
August-20	800 mg/L	5100 mg/L	20280	\$119,722.86	\$20,810.00	(\$98,912.86)
September-20	720 mg/L	1200 mg/L	22742	\$25,451.29	\$8,200.00	(\$17,251.29)
October-20	1270 mg/L	3800 mg/L	21634	\$93,205.55	\$20,854.00	(\$72,351.55)
November-20	230 mg/L	240 mg/L	22145	\$0.00	\$0.00	\$0.00
December-20	825 mg/L	880 mg/L	22977	\$16,635.54	\$14,752.00	(\$1,883.54)
January-21	720 mg/L	810 mg/L	17843	\$14,366.00	\$8,420.00	(\$5,946.00)
February-21	710 mg/L	918 mg/L	19162	\$12,836.84	\$8,100.00	(\$4,736.84)
Total Region Overcharged						(\$565.3

SCHEDULE B

This is **Exhibit "G"** referred to in the
Affidavit of **Frank D'Angelo**
sworn before me this 13th day of
February, 2023



A Commissioner, etc.



Pollution Control Wastewater Bylaw Enforcement Report

MAAN ABDELGHANI (EMAIL)
#2156775 ONTARIO INC.
O/A D'ANGELO BRANDS
4500 EASTGATE PARKWAY
MISSISSAUGA, ON L4W 3W6

BV-Labs Job #: B9V1386
Report Date: 2019/11/12
Bureau Veritas Laboratories
Client Project#:
Site Location: 9794A-SX*
Sampler Initials: CK
INS.REF.: A

RESULTS OF ANALYSES OF WATER

Parameter	Units	9794A-SX	Sewer Use Limit
BV Labs ID		LFM871	
Sampling Date		2019-11-05	
COC Number		na	
pH		4.22	5.5 - 10
CBOD5	mg/L	6000	300
Total Phosphorus	mg/L	0.92	10
SEM - Mineral/Synthetic	mg/L	10	15
SEM - Animal/Vegetable	mg/L	15	150
Total Suspended Solids	mg/L	86	350

Inspector's Comments:

On Surcharge

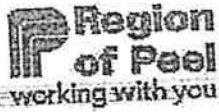
Reviewed By:

Erin Darling
ERIN DARLING

Date:

2019-11-20

*SURCHARGE-2ND SAMPLE-4TH QUARTER 2019



Pollution Control Wastewater Bylaw Enforcement Report

MAAN ABDELGHANI (EMAIL)
#2156775 ONTARIO INC.
O/A D'ANGELO BRANDS
4500 EASTGATE PARKWAY
MISSISSAUGA, ON L4W 3W6

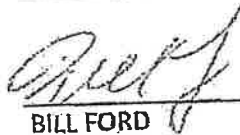
BV Labs Job #: B9YD888
Report Date: 2019/12/10
Bureau Veritas Laboratories
Client Project#:
Site Location: 9794A-SX*
Sampler Initials: DB
INS.REF.: A

RESULTS OF ANALYSES OF WATER

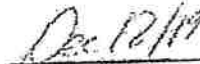
BV Labs ID		LMA907		
Sampling Date		2019-12-03		
COC Number		na		
Parameter	Units	9794A-SX		Sewer Use Limit
Field pH		7.82		5.5 - 10
CBOD5	mg/L	1500		300
Total Phosphorus	mg/L	0.71		10
SEM - Mineral/Synthetic	mg/L	4.1		15
SEM - Animal/Vegetable	mg/L	13		150
Total Suspended Solids	mg/L	37		350

Inspector's Comments: _____

Reviewed By: _____


BILL FORD

Date: _____



*SURCHARGE-3RD SAMPLE-4TH QUARTER 2019

Date Printed:
December 11, 2019

MAAN ABDELGHANI (EMAIL)
#2156775 ONTARIO INC.
O/A D'ANGELO BRANDS
4500 EASTGATE PARKWAY
MISSISSAUGA, ON L4W 3W6

BV Labs Job #: C027106
 Report Date: 2020/02/05
 Bureau Veritas Laboratories
 Client Project#:
 Site Location: 9794A-SX*
 Sampler Initials: CK
 INS.REF.: A

RESULTS OF ANALYSES OF WATER

BV Labs ID		LXC702		
Sampling Date		2020-01-30		
COC Number		N/A		
Parameter	Units	9794A-SX		Sewer Use Limit
Field pH		7.40		5.5 - 10
CBOD5	mg/L	1100		300
Total Phosphorus	mg/L	0.66		10
SEM - Mineral/Synthetic	mg/L	6.0		15
SEM - Animal/Vegetable	mg/L	12		150
Total Suspended Solids	mg/L	130		350

Inspector's Comments:

Reviewed By:


 BILL FORD

Date:

Feb 11/20

***SURCHARGE-1ST SAMPLE-1ST QUARTER 2020**

Date Printed:

February 11, 2020



Pollution Control Wastewater Bylaw Enforcement Report

BV Labs Job #: C046622

Report Date: 2020/02/27

Bureau Veritas Laboratories

Client Project#:

Site Location: 9794A-SX*

Sampler Initials: CK

INS.REF.: A

MAAN ABDELGHANI (EMAIL)
#2156775 ONTARIO INC.
O/A D'ANGELO BRANDS
4500 EASTGATE PARKWAY
MISSISSAUGA, ON L4W 3W6

RESULTS OF ANALYSES OF WATER

BV Labs ID		MBG847	
Sampling Date		2020-02-20	
COC Number		na	
Parameter	Units	9794A-SX	Sewer Use Limit
pH		4.18	5.5 - 10
CBOD5	mg/L	4900	300
Total Phosphorus	mg/L	1.5	10
SEM - Mineral/Synthetic	mg/L	3.8	15
SEM - Animal/Vegetable	mg/L	11	150
Total Suspended Solids	mg/L	240	350

Inspector's Comments:

pH low

Reviewed By:

Bill Ford

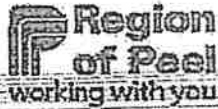
BILL FORD

Date:

MAR 2 / 20

*SURCHARGE-2ND SAMPLE-1ST QUARTER 2020

Date Printed:
March 2, 2020



Pollution Control Wastewater Bylaw Enforcement Report

BV Labs Job #: C096740

MAAN ABDELGHANI (EMAIL)
#2156775 ONTARIO INC.
O/A D'ANGELO BRANDS
4500 EASTGATE PARKWAY
MISSISSAUGA, ON L4W 3W6

Report Date: 2020/04/27
Bureau Veritas Laboratories
Client Project#:
Site Location: 9794A-SX*
Sampler Initials: MD
INS.REF.: A

RESULTS OF ANALYSES OF WATER

BV Labs ID		MLW330	
Sampling Date		2020-04-17	
COC Number		N/A	
Parameter	Units	9794A-SX	Sewer Use Limit
pH		5.27	5.5 - 10
CBOD5	mg/L	3300	300
Total Phosphorus	mg/L	0.81	10
SEM - Mineral/Synthetic	mg/L	1.4	15
SEM - Animal/Vegetable	mg/L	7.3	150
Total Suspended Solids	mg/L	89	350

Inspector's Comments:

low pH

Reviewed By:

[Signature]
BILL FORD

Date:

Apr 30/20

*SURCHARGE-1ST SAMPLE-2ND QUARTER 2020

Date Printed:
April 28, 2020

BV Labs Job #: COF0091

Report Date: 2020/06/24

Bureau Veritas Laboratories

Client Project#:

Site Location: 9794A-SX*

Sampler Initials: MB

INS.REF.: A

MAAN ABDELGHANI (EMAIL)
#2156775 ONTARIO INC.
O/A D'ANGELO BRANDS
4500 EASTGATE PARKWAY
MISSISSAUGA, ON L4W 3W6

RESULTS OF ANALYSES OF WATER

BV Labs ID		MWY590	
Sampling Date		2020-06-17	
COC Number		n/a	
Parameter	Units	9794A-SX	Sewer Use Limit
pH		4.40	5.5 - 10
CBOD5	mg/L	2500	300
Total Phosphorus	mg/L	0.51	10
SEM - Mineral/Synthetic	mg/L	34	15
SEM - Animal/Vegetable	mg/L	74	150
Total Suspended Solids	mg/L	49	350

Inspector's Comments:

low pH

Reviewed By:

[Signature]
BILL FORD

Date:

Jul 2 / 20

*SURCHARGE-3RD SAMPLE-2ND QUARTER 2020

Date Printed:
June 25, 2020

BV Labs Job #: C014470

Report Date: 2020/07/28

Bureau Veritas Laboratories

Client Project#:

Site Location: 9794A-SX*

Sampler Initials: MD

INS.REF.: A

MAAN ABDELGHANI (EMAIL)
#2156775 ONTARIO INC.
O/A D'ANGELO BRANDS
4500 EASTGATE PARKWAY
MISSISSAUGA, ON L4W 3W6

RESULTS OF ANALYSES OF WATER

BV Labs ID		NEH669	
Sampling Date		2020-07-22	
COC Number		NA	
Parameter	Units	9794A-SX	Sewer Use Limit
pH		4.17	5.5 - 10
CBOD5	mg/L	2400	300
Total Phosphorus	mg/L	0.76	10
SEM - Mineral/Synthetic	mg/L	12	15
SEM - Animal/Vegetable	mg/L	14	150
Total Suspended Solids	mg/L	73	350

Inspector's Comments:

low pH

Reviewed By:

[Signature]
BILL FORD

Date:

[Signature]
Aug 2nd 2020

*SURCHARGE-1ST SAMPLE-3RD QUARTER 2020

Date Printed:

August 5, 2020



Pollution Control Wastewater Bylaw Enforcement Report

MAAN ABDELGHANI (EMAIL)
#2156775 ONTARIO INC.
O/A D'ANGELO BRANDS
4500 EASTGATE PARKWAY
MISSISSAUGA, ON L4W 3W6

BV Labs Job #: COR0951
Report Date: 2020/10/21
Bureau Veritas Laboratories
Client Project#:
Site Location: 9794A-SX*
Sampler Initials: ED
INS.REF.: A

RESULTS OF ANALYSES OF WATER

Parameter	Units	9794A-SX	Sewer Use Limit
BV Labs ID		NXA022	
Sampling Date		2020-10-15	
COC Number		N/A	
Field pH		5.44	5.5 - 10
CBOD5	mg/L	3800	300
Total Phosphorus	mg/L	0.40	10
SEM - Mineral/Synthetic	mg/L	11	15
SEM - Animal/Vegetable	mg/L	23	150
Total Suspended Solids	mg/L	37	350

Inspector's Comments: _____

Reviewed By: _____


BILL FORD

Date: _____

OCT 23/20

SURCHARGE-1ST SAMPLE-4TH QUARTER 2020

TAB 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.
JUSTICE OSBORNE

)
)
)

●, THE ●
DAY OF ●, 2023

B E T W E E N:

CANADIAN WESTERN BANK

Applicant

and

2722959 ONTARIO LTD. and 2156775 ONTARIO LIMITED

Respondents

**ORDER
(Partial Lift of Stay)**

THIS MOTION made by 2156775 Ontario Limited (“**215**”) for an Order partially lifting the stay of proceedings (the “**Stay**”) effected under the Receivership Order of this Court dated November 3, 2022 (the “**Receivership Order**”) was heard this day at 330 University Avenue, Toronto, Ontario, by videoconference.

ON READING the Motion Record of 215, and on hearing the submissions of counsel for 215, counsel for the Receiver and counsel for the Applicant and such other party as listed on the counsel slip, no one else appearing although duly served as evidenced from the affidavit of service, filed:

SERVICE

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

PARTIAL LIFT OF STAY

2. **THIS COURT ORDERS** that the Stay be and is hereby lifted for the sole purpose of allowing the continuation of the action styled *2156776 Ontario Inc. cob D'Angelo Brands and The Regional Municipality of Peel* bearing Ontario Superior Court of Justice file number CV-20-00002978-0000, the action styled *2156775 Ontario Inc. cob as D'Angelo Brands and The Regional Municipality of Peel and the City of Mississauga* bearing Ontario Superior Court of Justice file number CV-21-00003036-0000, and the action styled *2156776 Ontario Inc. cob D'Angelo Brands and The Regional Municipality of Peel, Nando Iannica, Elaine Gilliland, Steven Fantin, Bill Ford, and Khawer Rauf* bearing Ontario Superior Court of Justice file number CV-21-00003482-0000 (collectively, the "**215 Actions**"), provided however that any judgment or order made in the 215 Actions against either of the Respondents herein shall remain subject to the Stay and the Receivership Order.

3. **THIS COURT ORDERS** that the Respondents herein shall not use or allow others to use any of their Property (as defined in the Receivership Order) to pay or secure payment of any Order made in the 215 Actions against one or both of the Respondents herein, including, but not limited to, any Order for costs or any Order for security for costs, without a further Order of the Court in the within proceeding.

GENERAL

4. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be added to the service list in each of the 215 Actions and shall be kept apprised of the status of the 215 Actions.

5. **THIS COURT ORDERS** that there will be no costs of this motion.

6. **THIS COURT ORDERS** that this Order and all its provisions are effective from the date it is made without any need for entry and filing.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

**ORDER
(PARTIAL LIFT OF STAY)**

KLUG LAW
Barristers & Solicitors
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Suite 800
Markham, ON L3R 6H3

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Law Society No. 12452U
Telephone: (905) 947-8771
Facsimile: (905) 947-0529

Counsel to Lo Greco Stilman LLP

CANADIAN WESTERN BANK - and - 2722959 ONTARIO LTD. et al

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

MOTION RECORD

KLUG LAW
Barristers & Solicitors
100 Allstate Parkway
Suite 800
Markham, ON L3R 6H3

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Counsel to Lo Greco Stilman LLP