

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**BETWEEN:**

**THE TORONTO-DOMINION BANK**

Applicant

- and -

**BRAD DUBY PROFESSIONAL CORPORATION**

Respondent

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

**MOTION RECORD OF THE RESPONDING PARTY (NEW COUNSEL),  
RYAN NAIMARK PROFESSIONAL CORPORATION**

September 15, 2022

**RYAN NAIMARK PROFESSIONAL  
CORPORATION O/A NAIMARK LAW FIRM**  
141 Adelaide Street West, Suite 330  
Toronto ON M5H 3L5

**Ryan Naimark**  
**LSO No. 40960R**

Tel: 416-366-7246  
Fax: 416-366-7244  
[rnaimark@naimarklaw.com](mailto:rnaimark@naimarklaw.com)

Lawyers for the responding party, (new counsel)  
Ryan Naimark Professional Corporation

**TO: SUPERIOR COURT OF JUSTICE**  
*COMMERCIAL LIST*  
330 University Avenue  
Toronto, ON, M5G 1R8

**AND TO: HARRISON PENZA LLP**  
Barristers & Solicitors  
130 Dufferin Avenue, Suite 1101  
London, ON N6A 5R2

**Timothy C. Hogan (LSO #36553S)**  
**Robert Danter (LSO #69806O)**  
Tel: (519) 679-9660  
Fax: (519) 667-3362  
Email: [thogan@harrisonpensa.com](mailto:thogan@harrisonpensa.com) and  
[rdanter@harrisonpensa.com](mailto:rdanter@harrisonpensa.com)

Lawyers for the Receiver, MNP Ltd.

**AND TO: AIRD & BERLIS LLP**  
Brookfield Place  
181 Bay Street, Suite  
1800 Toronto, ON M5J  
2T9

**Attention: Kyle Plunkett & Nathan Gates**

Tel: (416) 863-1500  
Email: [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com) and [ngates@airdberlis.com](mailto:ngates@airdberlis.com)

Lawyers for the Applicant, Toronto-Dominion Bank

**AND TO: LAW SOCIETY OF ONTARIO**  
393 University Avenue, Suite  
1100 Toronto, ON M5G 1E6

**Attention: Adam Di Federico**

Tel: (437) 9297285  
Email: [AFederic@lso.ca](mailto:AFederic@lso.ca)

Lawyers for the Law Society of Ontario

**AND TO: MNP LTD.**  
111 Richmond Street West, Suite 300 Toronto, ON M5H 2G4

**Attention: Matthew Lem**

Tel: (416) 515-388  
Email: [matthew.lem@mnp.ca](mailto:matthew.lem@mnp.ca)

Receiver

**AND TO: JAFFE PERITZ LLP**  
100 Richmond Street West, Suite 424 Toronto, ON M5H 3K6

**Attention: Brandon Jaffe & Elaine Peritz**

Tel: (416) 368-2809 ext. 101  
Email: [bjaffe@jaffeperitz.com](mailto:bjaffe@jaffeperitz.com) and [eperitz@jaffeperitz.com](mailto:eperitz@jaffeperitz.com)

Lawyers for Bridgepoint Financial Services

**AND TO: SOMOGYI LAW GROUP**  
758 Sheppard Avenue West North York, ON M3H 2S8

**Attention: Adam A. Somogyi**

Tel: (416) 941-2502  
Email: [adam@slglegal.ca](mailto:adam@slglegal.ca)

New Counsel

**AND TO: MK LEGAL SERVICES PROFESSION CORPORATION**  
1110 Finch Ave. W., Suite 205 Toronto, ON M3J 2T2

**Attention: Shahen A. Alexanian**

Tel: (416) 650-0060  
Email: [shahen@mklegal.ca](mailto:shahen@mklegal.ca)

New Counsel

**AND TO: CHORNEY SIDHU INJURY LAWYERS**  
2 Automatic Road, Unit 105 Brampton, ON L6S 6K8

**Attention: Melissa Sidhu & Savannah Chorney**

Tel: (844) 487-8482

Email: [melissa@chorneylawyers.com](mailto:melissa@chorneylawyers.com) and  
[savannah@chorneylawyers.com](mailto:savannah@chorneylawyers.com)

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**INDEX**

<u>DOCUMENT</u>	<u>TAB</u>
<b>Affidavit of Courtney Madison</b>	<b>1</b>
Correspondence to the Receiver in relation to one client matter, <i>redacted</i>	A
Example of letter to prior counsel, <i>redacted</i>	B
BDPC retainer agreements, <i>redacted</i>	C

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**AFFIDAVIT OF COURTNEY MADISON**

I, **COURTNEY MADISON**, of the City of Toronto, in the Province of Ontario, MAKE  
OATH AND SAY:

1. I am a lawyer at Ryan Naimark Professional Corporation operating as Naimark Law Firm,  
lawyers for the new counsel, Ryan Naimark Professional Corporation, as such have

knowledge of the matters to which I hereinafter depose, save and except where I specify to be based on information and belief, in which case I verily do believe them to be true.

2. In my practice, I handle claims where I was retained shortly after a client's loss, and I also handle claims where the client has transferred to our law firm after terminating a retainer agreement with their prior lawyer(s).
3. In cases where I assume carriage of a client's file midway through litigation, I write counsel requesting the client's file and will typically agree to protect the reasonable costs of the prior counsel's legal fees from any future settlement subject to my client's right to an assessment pursuant to the *Solicitors' Act*. *Attached hereto and marked as **Exhibit "A"** is a true copy of an example of a letter our office has provided to prior counsel.*
4. I verily believe that this is standard practice for our firm and other plaintiff injury firms. This is based on my experience at Naimark Law Firm and the occasional letters our office has received from other personal injury firms that reflect similar terms.

### **BDPC Client Files**

5. I am advised by Anita Aulach, our firm's Director of Operations, and do verily believe that our firm has been retained by approximately 50 former clients from Brad Duby Professional Corporation ("BDPC").
6. Based on a review of our firm's internal and confidential records, I verily believe that there are different retainer agreements that our firm has negotiated with the clients we have accepted from BDPC.

7. In some cases, our firm has agreed upon settlement to pay any fees owing BDPC from our firm's legal fees in an amount that is subject to the client's right of an assessment.
8. In other cases, the clients have agreed to pay for BDPC fees in an amount that is also subject to the client's right of an assessment.
9. There are no arrangements that consider a 'sliding fee structure' as proposed by the Receiver on behalf of The Toronto-Dominion Bank.
10. Based on review of the former BDPC client files, I do verily believe that the late Brad Duby had committed fraud against some clients. For instance, there are some client files where Mr. Duby entered into settlement agreements on behalf of the clients without their consent, had forged documents, retained settlement monies and took our high interest rate loans on behalf of the clients without their knowledge. I understand in some instances he may also have rendered disbursement accounts to counsel with those disbursements left unpaid.
11. In some cases, our firm has applied to the Law Society of Ontario ("LSO") Compensation Fund for the former BDPC clients.
12. I have recently applied to the LSO Compensation Fund in one matter given the issues noted in paragraph 10, above.
13. Based on review of the former BDPC client files, I do verily believe that Mr. Duby's handling of some of the client files has negatively affected the settlement value for the client's claim(s). For instance, in respect of some files, Mr. Duby has missed limitations, has failed to respond to correspondences from the insurance company, has failed to request



and provide records, or obtain reports that support the client's position. This has also increased the amount of time my colleagues, clerks and staff have had to spend and continue to do so, to address the issues caused by BDPC poor handling of the files.

14. I verily believe that our firm may not be able to continue to act for some of the former BDPC clients should a 'sliding fee structure' be imposed.
15. When our firm agreed to accept the former BDPC client's there was no 'sliding fee structure' proposed or contemplated. Our firm agreed to enter into the retainers on the understanding that while there may be some fees owed to BDPC, these would be subject to the client's right of an assessment.
16. I verily believe that any 'sliding fee structure' would be disproportionate to the final settlement amount achieved and the amount our firm may claim for legal fees given the increase in the time and money our firm has to date, expended on these files.
17. I verily believe the proposed 'sliding fee structure' would not enhance access to justice or serve the client's best interest. This is because the 'sliding fee structure' would run contrary to a client's legal right to assessment pursuant to the *Solicitors' Act*. It could also leave some clients with no legal representation as it may not be possible for our firm to continue to act for some client's on a continued contingency fee should the 'sliding fee structure' be imposed.
18. I further understand that a client cannot execute their right to assessment legal fees, until a fee account is rendered by their counsel. On review of the files, I do not see that our clients, formerly represented by Mr. Duby were ever rendered a statement of account for legal fees.

There is a general list of disbursements, but some are not itemized and some appear to be incorrect.

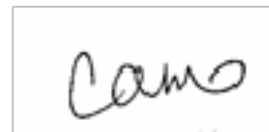
19. I verily believe that our firm has reached out to the Receiver in each case where a client file is close to resolving to negotiate BPDC legal fees. *Attached hereto and marked as **Exhibit "B"** are true copies of correspondences to Receiver in relation to one file, redacted accordingly.*
20. I verily believe that any 'sliding fee structure' only serves the interest of the Receiver.
21. I verily believe that BDPC retainer agreements do not provide for a 'sliding fee structure' as proposed by the Receiver. *Attached hereto and marked as **Exhibit "C"** are a true copies of some of the BDPC retainer agreements, redacted accordingly.*
22. I make this affidavit to oppose the Receiver's proposed 'sliding fee structure' and its request for privileged settlement information as outlined at paragraphs 1(c) and (d) of the Moving party's Notice of Motion and for no other or improper purpose.

**SWORN** by **COURTNEY MADISON** at the City of Toronto, in the Province of Ontario, before me on September 15, 2022, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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Commissioner for Taking Affidavits  
(or as may be)



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**COURTNEY MADISON**

This is Exhibit "A" referred to in the Affidavit of Courtney Madison sworn by Courtney Madison at the City of Toronto, in the Province of Ontario, before me on September 15, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

A handwritten signature in black ink, appearing to be the initials 'MS' with a stylized flourish extending to the right.

---

*Commissioner for Taking Affidavits (or as may be)*



Matthew Lem  
MNP Ltd. Receiver of the Brady Duby Professional Corporation  
111 Richmond Street West, Suite 300  
Toronto, Ontario MSH2G4

**VIA EMAIL:** [matthew.lem@mnp.ca](mailto:matthew.lem@mnp.ca)

Dear Mr. Lem:

**Re:    Matter:** [REDACTED]  
      **Date of Loss:** [REDACTED]  
      **Our File No.:** [REDACTED]

---

I am writing further to our telephone discussion on January 14, 2022. My office contacted you to discuss Mr. Brad Duby and Brad Duby Professional Corporation (“BDPC”) prior legal fees in your capacity as the court appointed receiver for BDPC.

As I mentioned during our call, I have tentatively reached a settlement agreement with respect to [REDACTED] [REDACTED] asked me to confirm the amount that is being claimed on behalf of BDPC for its legal fees and disbursements. I cannot advise [REDACTED] of this information as we have not been provided with any accounts for the legal fees being claimed for any of Mr. Duby’s former clients, including [REDACTED].

It is not only customary, but it is a requirement for a lawyer or law firm to render an account to a client upon termination of the retainer for the amount that is being claimed for legal fees. This is a legal obligation as per the *Solicitors Act* and provides the client with an understanding of the work completed on his or her file. It also affords the client an opportunity to have the account assessed should the amount claimed be unreasonable. As I have advised you during our call, I have received accounts on behalf of prior lawyers even in unfortunate cases where the lawyer has passed away as in Mr. Duby’s case.

As you have previously confirmed, Mr. Duby did not keep any dockets. Given the lack of dockets, you offered to accept a percentage of my firm’s total fee, excluding disbursements, on each case plus HST to be paid for all the files. You initially proposed 20% and subsequently suggested 15%.



As I explained to you on our call, I cannot agree to a fixed percentage for all the files as this would not be in the best interest for some clients and I have an obligation to act in the best interest for each and every one of my clients. I informed you that while there are some files where Mr. Duby did some work, there are also files where no work was completed and some files where Mr. Duby had committed fraud by entering settlement agreements on behalf of the clients without consent, forging documents and retaining settlement monies.

I have asked that you provide me with accounts on behalf of Mr. Duby so I can provide these to the clients and seek instructions to which you asked that I provide you with a proposal instead. This is not customary nor industry practice. Having said that, I have made further inquiries with respect to [REDACTED] tort case to determine the extent of Mr. Duby's work on the file.

The defendant's lawyer has confirmed that Mr. Duby was able to serve the defendant with the Statement of Claim directly so there was no motion to effect subservice and/or validate service. In fact, there have been no motions brought by either party throughout the litigation.

The defendant's lawyer also confirmed that his client had offered to admit liability for the accident which was accepted by Mr. Duby. As such, Mr. Duby did not examine the defendant at the examinations for discovery. The only examination that took place was for [REDACTED] which was completed by the defendant's lawyer on November 18, 2020. We have confirmed with the court reporting centre that Mr. Duby attended the examination with [REDACTED] which was completed in under 5 hours (from 10 a.m. to 2:45 p.m.).

The defendant's lawyer has also advised that Mr. Duby's office did not subsequently provide any undertakings following the examination of [REDACTED]. The only undertakings received by the defendant were the undertakings my office provided after taking over the file.

In light of above, I am prepared to recommend [REDACTED] all-inclusive for legal fees plus disbursements for a resolution of this matter on a full and final basis which I believe is reasonable. I require a response within the next three business days on whether this would be acceptable and I will seek instructions from my client. Should this not be acceptable then please immediately take the necessary steps to have Mr. Duby's account assessed.

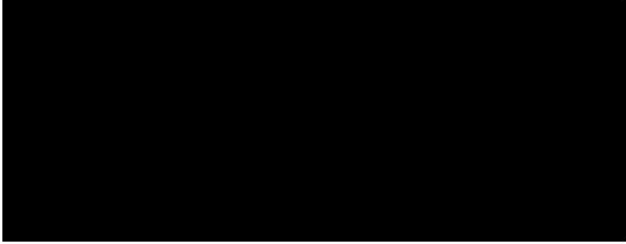
Please also provide us with the accounts for Mr. Duby's other former clients. I look forward to hearing from you.

Yours very truly,

Ryan Naimark



Ryan Naimark  
Direct line: 416-366-7246  
Email: [maimark@naimarklaw.com](mailto:maimark@naimarklaw.com)



Matthew Lem  
MNP Ltd. *Receiver of the Brady Duby Professional Corporation* 111 Richmond Street West, Suite 300  
Toronto, Ontario MSH2G4

*VIA EMAIL:* [matthew.lem@mnp.ca](mailto:matthew.lem@mnp.ca)

Timothy C. Hogan  
Harrison Pensa LLP

*VIA EMAIL:* [thogan@harrisonpensa.com](mailto:thogan@harrisonpensa.com)

Dear Mr. Lem and Mr. Hogan:

Re: **Matter** [REDACTED]

---

I am writing further to your letter dated January 21, 2022. I have reviewed the Appointing Order and it appears that the information you are seeking is not something we can assist with.

Briefly, you are requesting that we provide you with the following:

1. Copies of all work product of BDPC on [REDACTED] that is in your possession;
2. Details of the potential settlement of [REDACTED], including a breakdown of the amounts secured for both damages and costs and the stage of litigation in which the matter settled; and
3. Details of your legal account to be charged to [REDACTED] both legal fees and disbursements.

You have referred us to paragraphs four, five and six of the Appointing Order as our authority to provide you with the above information.

From our review, it appears that the information you are seeking with respect to item 1 is to be obtained from the Law Society of Ontario (“LSO”). We refer you to paragraphs 16 and 17 of the Appointing Order, which provides as follows:

16. THIS COURT ORDERS that LSO shall be permitted, and is hereby authorized, to disclose to the Receiver such Records and/or information relating to the Debtor’s client





files; provided that the Receiver shall [REDACTED] to keep information that is confidential and/or privileged contained in the Debtor's client files (the "Confidential Information") as such, subject to paragraph 17 below [REDACTED] I comply with any and all laws and regulations applicable to the maintenance and transfer of any such Records or files to any successor or substituting lawyer.

17. THIS COURT ORDERS that LSO and the Receiver shall be permitted, and are hereby authorized, to disclose to and share with legal counsel to each of TD Bank, Easy Legal Finance Inc., and Bridgepoint Financial Services, the Debtor's secured creditors ("Counsel"), such Records and/or information relating to the Debtor's client files, which may include Confidential Information related to the specific files for which the secured creditor has provided funding to the Debtor or its clients; provided that any such disclosure of Confidential Information to Counsel shall be subject to privilege attaching to any solicitor-client communication and shall keep such information confidential and shall comply with statutory provisions prohibiting such disclosure to third parties.

You should already be in possession of the file from the LSO, but if not then please write to the LSO to obtain a copy of the file as it appears they have the authority to provide this to you pursuant to the Appointing Order.

In terms of items 2 and 3, we cannot provide you with details of the settlement of [REDACTED] claim or details of our legal account as this is captured by solicitor-client privilege. We note that paragraph five of the Appointing Order in which you are relying on (in addition to paragraph 6), specifically states that **"nothing in this paragraph 5 or in paragraph 6 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"**.

In any event, we cannot provide you with the information you are seeking as there has been no settlement of [REDACTED] claim and therefore, there has been no account rendered. [REDACTED] cannot provide settlement instructions without understanding how much she is to receive in-pocket and we cannot advise [REDACTED] of this amount as we do not know how much BDPC is seeking for prior legal fees. We have asked that you provide us with an account so that we may inform [REDACTED] but you have not done so. We ask that you please advise how much you are seeking so that we can obtain instructions from [REDACTED]

No settlement has been reached and no settlement can be reached without this information. As indicated in our prior telephone discussion with Mr. Lem and reiterated in our prior correspondence, we cannot agree to a fixed percentage for all the files as this would not be in the best interest for all the clients and my obligation is to act in the best interest for each and every client. As you are aware, there are files where Mr. Duby had committed fraud by entering settlement agreements on behalf without the clients' consent, forging documents and retaining settlement monies.



This delay is causing serious prejudice to [REDACTED]. As no settlement has been reached, the Insurer is able to pull any settlement offer at any time prior to acceptance. There is great risk that settlement discussions will fall apart as [REDACTED] has not accepted anything and will not do so until she is able to understand how much she can anticipate receiving in-pocket.

Please provide an account on behalf of BDPC, forthwith without any further delay.

Yours very truly,

*Per:*  
Ryan Naimark



This is Exhibit “B” referred to in the Affidavit of Courtney Madison sworn by Courtney Madison at the City of Toronto, in the Province of Ontario, before me on September 15, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

A handwritten signature in black ink, consisting of a stylized 'M' followed by a horizontal line and a vertical stroke.

---

*Commissioner for Taking Affidavits (or as may be)*

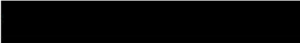
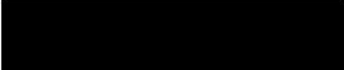


Grillo Law Personal Injury Lawyers  
38 Apex Road, Unit A  
Toronto, ON M6A 2V2

VIA FACSIMILE: 416-614-6082

Dear Counsel:

RE:  


Please be advised that I have been retained by  to assume carriage of all matters and claims arising out of the injuries that he sustained in the motor vehicle accident of 

Therefore, please find enclosed a copy of our duly executed Direction to Transfer form, confirming that we have been retained to assume carriage of this matter and permitting you to release his complete file to my attention.

I trust that we will receive your complete file within 30 days from the date of this letter.

Our firm will undertake to protect your reasonable account for incurred legal fees and disbursements to today's date, subject to the right of an assessment, out of any settlement or judgement proceeds.

I trust that you will cease any and all activity with  effective immediately.

Lastly, we will also be notifying the Accident Benefits insurer  of our representation of 

Should you have any questions or concerns regarding this matter, please contact the paralegal assigned to this client matter, Deanna Di Schiavi, directly by telephone at 416-777-6055 or via email at [ddischiavi@naimarklaw.com](mailto:ddischiavi@naimarklaw.com).

I look forward to hearing from you shortly in this regard and receiving your complete file.

Yours very truly,



per.: Ryan M. Naimark  
RMN/dsc  
Encls.:

This is Exhibit “C” referred to in the Affidavit of Courtney Madison sworn by Courtney Madison at the City of Toronto, in the Province of Ontario, before me on September 15, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

A handwritten signature in black ink, consisting of a stylized 'M' followed by a flourish.

---

*Commissioner for Taking Affidavits (or as may be)*



## Contingency Fee Retainer Agreement

Between:

**HANSON DUBY LAWYERS**  
2 Clinton Place, Toronto, ON M6G 1J9  
Tel.: 416 588 9100 Fax: 416 588 9102

-and-



You have retained Hanson Duby Lawyers to recover damages arising from an accident on



By signing this retainer, you authorize our firm to take all steps in connection with the proceeding as Hanson Duby, Lawyers may consider necessary and proper, and to employ such agents and retain counsel as Hanson Duby, Lawyers considers advisable.

Hanson Duby Lawyers will incur a significant amount of time and disbursements on your behalf. You have the option of retaining us by way of an hourly retainer; however, hourly rates vary among solicitors, and you may speak with other lawyers to compare rates. You have elected to retain Hanson Duby Lawyers by way of a contingency agreement and are aware that you are protected by the usual protections regarding retainers that are offered by the Law Society of Upper Canada and in caselaw.

Disbursements are out-of-pocket expenses incurred by Hanson Duby Lawyers in the prosecution of your claim. Such disbursements are likely to include medical records and reports, police reports, experts' reports, court filing fees and agency fees. You acknowledge that Hanson Duby Lawyers are entitled to be reimbursed for any of these disbursements expended on your behalf subject to s. 47 of the *Legal Aid Services Act, 1998* (applicable if you are in receipt of Legal Aid), and such entitlement is a first charge on any funds received on settlement.

In Ontario, an injured party who achieves any reasonable degree of success in their lawsuit is also entitled to recover lawyers' costs from the Defendant. These costs contribute to payment of the total legal bill, but do not provide full indemnification.

By signing this agreement, you agree and direct that all funds claimed by Hanson Duby Lawyers for legal fees, costs, taxes and disbursements shall be paid to Hanson Duby Lawyers, in trust, on settlement.

The contingency fee paid by you to Hanson Duby Lawyers is equal to **15%** of all amounts recovered on your behalf for your injuries, damages and losses, excluding disbursements, regardless of the source of said recovery.

Please note that GST is payable on lawyers' fees. You will pay GST on the portion of the legal fee paid by you. The Defendant will contribute GST on the costs portion paid by them.

Dana Bruce Hanson Bsc. LLB  
dana@hansonduby.com  
LSUC # 295150

Brad Duby BA MA LLB  
brad@hansonduby.com  
LSUC # 47127J

Practicing in Association



Below is an example of how our fee is calculated:

Damages, plus interest:	\$10,000
Costs (from Defendant):	\$1,500
GST (from Defendant):	\$75
Disbursements (reimbursed by Defendant):	<u>\$1,000</u>
Total settlement:	\$12,575

The fee paid by you is 15% of the total damages and interest awarded:

Fee (Paid by you): 15% of \$10,000:	\$1,500
GST:	\$75

Therefore, **your total recovery** will be: **\$8,425**

Our account will consist of:

Costs (paid by Defendant):	\$1,500
Disbursements (reimbursed by Defendant)	\$1,000
Fee (paid by you):	\$1,500
GST	\$150
Total:	<u>\$4,150</u>

Hanson Duby Lawyers shall **not** recover more in fees than you recover as damages.

It is agreed that if no money is recovered by settlement, no fees shall be charged or billed to you. However, if the costs of the other parties are awarded against you, those costs are solely your responsibility, and not the responsibility of Hanson Duby Lawyers. We will discuss the prospects of success with you at different stages of the litigation.

If, for any reason, you retain new counsel, we ask that the new counsel pay our disbursements in full, forthwith, and honor our fee account for work performed to the time of termination of the retainer. The hourly rates for fees are set out in Tariff A for solicitors' fees under Rule 58.05 of the *Rules of Civil Procedure*.

If you mislead us or misrepresent your claim, we reserve the right to ask for an interim payment of fees, and/or a retainer, and/or an increased retainer, or to withdraw our services.

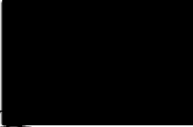
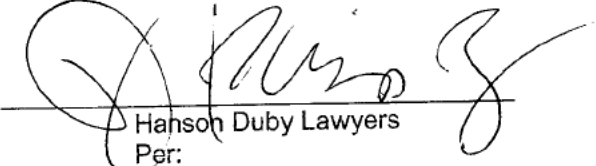
If the matter cannot be settled prior to trial, we will enter into a separate agreement to cover the fees associated with preparation and attendance at trial.

Costs for any appeal of a Judgment or Order, or services rendered by collection on a Judgment or Order, are separate, and will be based on hourly rates not covered by this document. We will enter into a separate agreement to cover the associated fees.

Dated: 02/28/2016

Signature: \_\_\_\_\_

Dated: Feb. 28/2016

  
  
 Hanson Duby Lawyers  
 Per:



HANSON • DUBY  
Lawyers

2 Clinton Place  
Toronto, Ontario  
M6G 1J9

tel. 416 588 9100  
fax 416 588 9102

## Contingency Fee Retainer Agreement

Between:

**HANSON DUBY LAWYERS**  
2 Clinton Place, Toronto, ON M6G 1J9  
Tel.: 416 588 9100 Fax: 416 588 9102

-and-



You have retained Hanson Duby Lawyers to recover damages arising from an accident on

[Redacted]

By signing this retainer, you authorize our firm to take all steps in connection with the proceeding as Hanson Duby, Lawyers may consider necessary and proper, and to employ such agents and retain counsel as Hanson Duby, Lawyers considers advisable.

Hanson Duby Lawyers will incur a significant amount of time and disbursements on your behalf. You have the option of retaining us by way of an hourly retainer; however, hourly rates vary among solicitors, and you may speak with other lawyers to compare rates. You have elected to retain Hanson Duby Lawyers by way of a contingency agreement and are aware that you are protected by the usual protections regarding retainers that are offered by the Law Society of Upper Canada and in caselaw.

Disbursements are out-of-pocket expenses incurred by Hanson Duby Lawyers in the prosecution of your claim. Such disbursements are likely to include medical records and reports, police reports, experts' reports, court filing fees and agency fees. You acknowledge that Hanson Duby Lawyers are entitled to be reimbursed for any of these disbursements expended on your behalf subject to s. 47 of the *Legal Aid Services Act, 1998* (applicable if you are in receipt of Legal Aid), and such entitlement is a first charge on any funds received on settlement.

In Ontario, an injured party who achieves any reasonable degree of success in their lawsuit is also entitled to recover lawyers' costs from the Defendant. These costs contribute to payment of the total legal bill, but do not provide full indemnification.

By signing this agreement, you agree and direct that all funds claimed by Hanson Duby Lawyers for legal fees, costs, taxes and disbursements shall be paid to Hanson Duby Lawyers, in trust, on settlement.

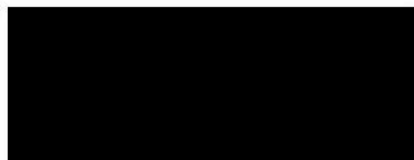
The contingency fee paid by you to Hanson Duby Lawyers is equal to 15% of all amounts recovered on your behalf for your injuries, damages and losses, excluding disbursements, regardless of the source of said recovery.

Please note that GST is payable on lawyers' fees. You will pay GST on the portion of the legal fee paid by you. The Defendant will contribute GST on the costs portion paid by them.

Dana Bruce Hanson Bsc. LLB  
dana@hansonduby.com  
LSUC # 295150

Brad Duby BA MA LLB  
brad@hansonduby.com  
LSUC # 47127J

Practicing in Association





Below is an example of how our fee is calculated:

Damages, plus interest:	\$10,000
Costs (from Defendant):	\$1,500
GST (from Defendant):	\$75
Disbursements (reimbursed by Defendant):	<u>\$1,000</u>
Total settlement:	\$12,575

The fee paid by you is 15% of the total damages and interest awarded:

Fee (Paid by you): 15% of \$10,000:	\$1,500
GST:	\$75

Therefore, **your total recovery** will be: \$8,425

Our account will consist of:

Costs (paid by Defendant):	\$1,500
Disbursements (reimbursed by Defendant)	\$1,000
Fee (paid by you):	\$1,500
GST	\$150
Total:	<u>\$4,150</u>

Hanson Duby Lawyers shall **not** recover more in fees than you recover as damages.

It is agreed that if no money is recovered by settlement, no fees shall be charged or billed to you. However, if the costs of the other parties are awarded against you, those costs are solely your responsibility, and not the responsibility of Hanson Duby Lawyers. We will discuss the prospects of success with you at different stages of the litigation.

If, for any reason, you retain new counsel, we ask that the new counsel pay our disbursements in full, forthwith, and honor our fee account for work performed to the time of termination of the retainer. The hourly rates for fees are set out in Tariff A for solicitors' fees under Rule 58.05 of the *Rules of Civil Procedure*.

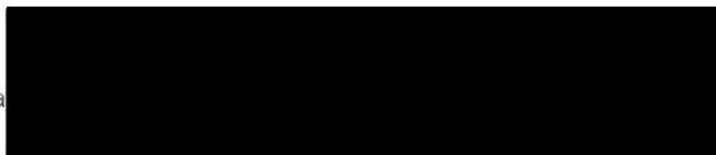
If you mislead us or misrepresent your claim, we reserve the right to ask for an interim payment of fees, and/or a retainer, and/or an increased retainer, or to withdraw our services.

If the matter cannot be settled prior to trial, we will enter into a separate agreement to cover the fees associated with preparation and attendance at trial.

Costs for any appeal of a Judgment or Order, or services rendered by collection on a Judgment or Order, are separate, and will be based on hourly rates not covered by this document. We will enter into a separate agreement to cover the associated fees.

Dated: 2017.04.15

Signature



Dated: 2021.7/15/15

[Signature]  
Hanson Duby Lawyers  
Per:

# DIRECTION

(Medical)

To:

Name:

Date of Birth:

Health Card No.:

Our File No.:

---

**I HEREBY AUTHORIZE AND DIRECT YOU** to deliver to my solicitors, **HANSON DUBY, LAWYERS, 2 Clinton Place, Toronto, Ontario, M6G 1J9**, copies of all documents in your possession pertaining to me, including hospital records, x-ray reports and x-rays, inpatient records, out-patient records, physiotherapy records, operative notes, test results, any and all raw test data, discharge summaries, letters, doctors' clinical notes and records, handwritten notes, nurses' notes, medication charts and all doctors' medical reports, consultation notes and records.

This direction is also a consent to the release of information pursuant to the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, and the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56.

**AND THIS SHALL BE** your good and sufficient authority for doing so.

**DATED** at \_\_\_\_\_, this \_\_\_\_\_, day of \_\_\_\_\_.

\_\_\_\_\_  
**WITNESS**







HANSON · DUBY  
Lawyers

2 Clinton Place  
Toronto, Ontario  
M6G 1J9

tel. 416 588 9100  
fax 416 588 9102

## Contingency Fee Retainer Agreement

Between:

**HANSON DUBY LAWYERS**  
2 Clinton Place, Toronto, ON M6G 1J9  
Tel.: 416 588 9100 Fax: 416 588 9102

-and-

You have retained Hanson Duby Lawyers to recover damages arising from an accident on

[REDACTED]

By signing this retainer, you authorize our firm to take all steps in connection with the proceeding as Hanson Duby, Lawyers may consider necessary and proper, and to employ such agents and retain counsel as Hanson Duby, Lawyers considers advisable.

Hanson Duby Lawyers will incur a significant amount of time and disbursements on your behalf. You have the option of retaining us by way of an hourly retainer; however, hourly rates vary among solicitors, and you may speak with other lawyers to compare rates. You have elected to retain Hanson Duby Lawyers by way of a contingency agreement and are aware that you are protected by the usual protections regarding retainers that are offered by the Law Society of Upper Canada and in caselaw.

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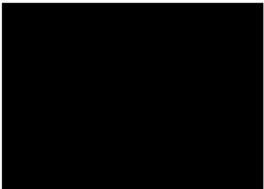
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dana@hansonduby.com  
LSUC # 295150

Brad Duby BA MA LLB  
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LSUC # 47127J

Practicing in Association



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Damages, plus interest:	\$10,000
Costs (from Defendant):	\$1,500
GST (from Defendant):	\$75
Disbursements (reimbursed by Defendant):	<u>\$1,000</u>
Total settlement:	\$12,575

The fee paid by you is 15% of the total damages and interest awarded:

Fee (Paid by you): 15% of \$10,000:	\$1,500
GST:	\$75

Therefore, **your total recovery** will be: **\$8,425**

Our account will consist of:

Costs (paid by Defendant):	\$1,500
Disbursements (reimbursed by Defendant)	\$1,000
Fee (paid by you):	\$1,500
GST	\$150
Total:	<u>\$4,150</u>

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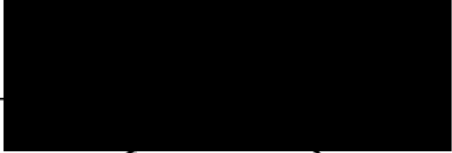
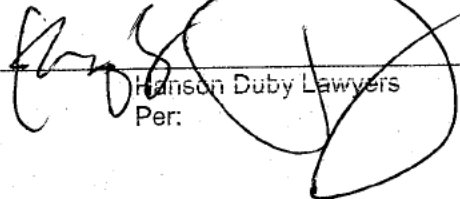
If the matter cannot be settled prior to trial, we will enter into a separate agreement to cover the fees associated with preparation and attendance at trial.

Costs for any appeal of a Judgment or Order, or services rendered by collection on a Judgment or Order, are separate, and will be based on hourly rates not covered by this document. We will enter into a separate agreement to cover the associated fees.

Dated: Oct 24, 2016

Signature: \_\_\_\_\_

Dated: Oct 24/16

  
  
 Hanson Duby Lawyers  
 Per: \_\_\_\_\_



**Contingency Fee Retainer Agreement**

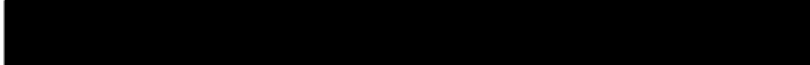
**Between:**

**HANSON DUBY LAWYERS**  
2 Clinton Place, Toronto, ON M6G 1J9  
Tel.: 416 588 9100 Fax: 416 588 9102

**-and-**



You have retained Hanson Duby Lawyers to recover damages arising from an accident on



By signing this retainer, you authorize our firm to take all steps in connection with the proceeding as Hanson Duby, Lawyers may consider necessary and proper, and to employ such agents and retain counsel as Hanson Duby, Lawyers considers advisable.

Hanson Duby Lawyers will incur a significant amount of time and disbursements on your behalf. You have the option of retaining us by way of an hourly retainer; however, hourly rates vary among solicitors, and you may speak with other lawyers to compare rates. You have elected to retain Hanson Duby Lawyers by way of a contingency agreement and are aware that you are protected by the usual protections regarding retainers that are offered by the Law Society of Upper Canada and in caselaw.

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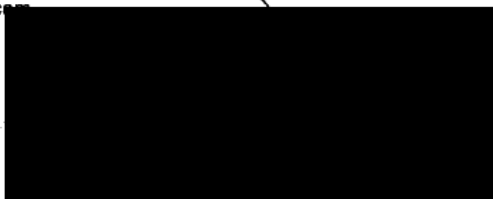
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Please note that GST is payable on lawyers' fees. You will pay GST on the portion of the legal fee paid by you. The Defendant will contribute GST on the costs portion paid by them.

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dana@hansonduby.com  
LSUC # 295150

Brad Duby BA MA LLB  
brad@hansonduby.com  
LSUC # 47127J

Practicing in Association



Below is an example of how our fee is calculated:

Damages, plus interest:	\$10,000
Costs (from Defendant):	\$1,500
GST (from Defendant):	\$75
Disbursements (reimbursed by Defendant):	<u>\$1,000</u>
Total settlement:	\$12,575

The fee paid by you is 15% of the total damages and interest awarded:

Fee (Paid by you): 15% of \$10,000:	\$1,500
GST:	\$75

Therefore, **your total recovery** will be: **\$8,425**

Our account will consist of:

Costs (paid by Defendant):	\$1,500
Disbursements (reimbursed by Defendant)	\$1,000
Fee (paid by you):	\$1,500
GST	\$150
Total:	<u>\$4,150</u>

Hanson Duby Lawyers shall not recover more in fees than you recover as damages.

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Costs for any appeal of a Judgment or Order, or services rendered by collection on a Judgment or Order, are separate, and will be based on hourly rates not covered by this document. We will enter into a separate agreement to cover the associated fees.

Dated: May 14, 2016

Signature: \_\_\_\_\_

Dated: May 14, 2016

Hanson Duby Lawyers  
Per: \_\_\_\_\_



HANSON • DUBY  
Lawyers

2 Clinton Place  
Toronto, Ontario  
M6G 1J9

tel. 416 588 9100  
fax 416 588 9102


## Contingency Fee Retainer Agreement

Between:

**HANSON DUBY LAWYERS**  
2 Clinton Place, Toronto, ON M6G 1J9  
Tel.: 416 588 9100 Fax: 416 588 9102

-and-



You have retained Hanson Duby Lawyers to recover damages arising from an accident on Slips, Fall on. 

By signing this retainer, you authorize our firm to take all steps in connection with the proceeding as Hanson Duby, Lawyers may consider necessary and proper, and to employ such agents and retain counsel as Hanson Duby, Lawyers considers advisable.

Hanson Duby Lawyers will incur a significant amount of time and disbursements on your behalf. You have the option of retaining us by way of an hourly retainer; however, hourly rates vary among solicitors, and you may speak with other lawyers to compare rates. You have elected to retain Hanson Duby Lawyers by way of a contingency agreement and are aware that you are protected by the usual protections regarding retainers that are offered by the Law Society of Upper Canada and in caselaw.

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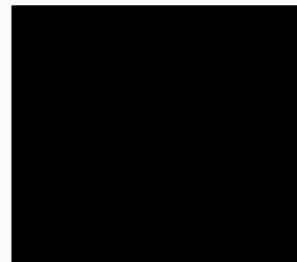
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LSUC # 295150

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brad@hansonduby.com  
LSUC # 47127J

Practicing in Association



Ton example

50000.

①

- 2000. disbursement.

- 14400. 30% (Fee + Cost)

- 1872 HST (13%),  
税.

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31728.

②

80000

- 2000 disbursement

- 23400 Fee - 30%

- 3042 HST - 13%

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51558



Below is an example of how our fee is calculated:

Damages, plus interest:	\$10,000
Costs (from Defendant):	\$1,500
GST (from Defendant):	\$75
Disbursements (reimbursed by Defendant):	<u>\$1,000</u>
Total settlement:	\$12,575

The fee paid by you is 15% of the total damages and interest awarded:

Fee (Paid by you): 15% of \$10,000:	\$1,500
GST:	\$75

Therefore, **your total recovery** will be: **\$8,425**

Our account will consist of:

Costs (paid by Defendant):	\$1,500
Disbursements (reimbursed by Defendant)	\$1,000
Fee (paid by you):	\$1,500
GST	\$150
Total:	<u>\$4,150</u>

Hanson Duby Lawyers shall **not** recover more in fees than you recover as damages.

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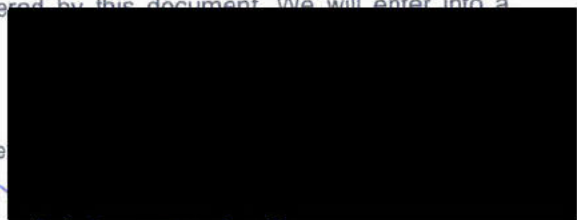
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Costs for any appeal of a Judgment or Order, or services rendered by collection on a Judgment or Order, are separate, and will be based on hourly rates not covered by this document. We will enter into a separate agreement to cover the associated fees.

Dated: July 22 - 2018

Signature

Dated: July 22/2018



*[Handwritten signature]*

Hanson Duby Lawyers  
Per:

## Contingency Fee Retainer Agreement

Between:

**HANSON DUBY LAWYERS**  
2 Clinton Place, Toronto, ON M6G 1J9  
Tel.: 416 588 9100 Fax: 416 588 9102

-and-

[REDACTED]

You have retained Hanson Duby Lawyers to recover damages arising from a **slip and fall** on [REDACTED]

By signing this retainer, you authorize our firm to take all steps in connection with the proceeding as Hanson Duby, Lawyers may consider necessary and proper, and to employ such agents and retain counsel as Hanson Duby, Lawyers considers advisable.

Hanson Duby Lawyers will incur a significant amount of time and disbursements on your behalf. You have the option of retaining us by way of an hourly retainer; however, hourly rates vary among solicitors, and you may speak with other lawyers to compare rates. You have elected to retain Hanson Duby Lawyers by way of a contingency agreement and are aware that you are protected by the usual protections regarding retainers that are offered by the Law Society of Upper Canada and in caselaw.

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Please note that HST is payable on lawyers' fees. You will pay HST on the portion of the legal fee paid by you. The Defendant will contribute HST on the costs portion paid by them.



Below is an example of how our fee is calculated:

Damages, plus interest:	\$10,000
Costs (from Defendant):	\$1,500
HST (from Defendant):	\$195
Disbursements (reimbursed by Defendant):	<u>\$1,000</u>
Total settlement:	\$12,695

The fee paid by you is 15% of the total damages and interest awarded:

Fee (Paid by you): 15% of \$10,000:	\$1,500
HST:	\$195

Therefore, **your total recovery** will be: **\$8,305**

Our account will consist of:

Costs (paid by Defendant):	\$1,500
Disbursements (reimbursed by Defendant)	\$1,000
Fee (paid by you):	\$1,500
HST	\$390
Total:	<u>\$4,390</u>

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Dated: May 30, 2015

Signature: 

Dated: \_\_\_\_\_

\_\_\_\_\_  
Hanson Duby Lawyers



HANSON-DUBY  
Lawyers

2 Clifton Place  
Toronto, Ontario  
M6G 1J9

tel. 416 588 9100  
fax 416 588 9102

## Contingency Fee Retainer Agreement

Between:

### HANSON DUBY LAWYERS

2 Clifton Place, Toronto, ON M6G 1J9  
Tel.: 416 588 9100 Fax: 416 588 9102

You have retained Hanson Duby Lawyers to recover damages arising from an accident on MVA 

By signing this retainer, you authorize our firm to take all steps in connection with the proceeding as Hanson Duby, Lawyers may consider necessary and proper, and to employ such agents and retain counsel as Hanson Duby, Lawyers considers advisable.

Hanson Duby Lawyers will incur a significant amount of time and disbursements on your behalf. You have the option of retaining us by way of an hourly retainer; however, hourly rates vary among solicitors, and you may speak with other lawyers to compare rates. You have elected to retain Hanson Duby Lawyers by way of a contingency agreement and are aware that you are protected by the usual protections regarding retainers that are offered by the Law Society of Upper Canada and in caselaw.

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LSUC # 295150

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LSUC # 47127J

Practicing in Association

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GST (from Defendant):	\$75
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Total settlement:	\$12,575

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Our account will consist of:

Costs (paid by Defendant):	\$1,500
Disbursements (reimbursed by Defendant)	\$1,000
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GST	\$150
Total:	<u>\$4,150</u>

Hanson Duby Lawyers shall not recover more in fees than you recover as damages.

It is agreed that if no money is recovered by settlement, no fees shall be charged or billed to you. However, if the costs of the other parties are awarded against you, those costs are solely your responsibility, and not the responsibility of Hanson Duby Lawyers. We will discuss the prospects of success with you at different stages of the litigation.

If, for any reason, you retain new counsel, we ask that the new counsel pay our disbursements in full, forthwith, and honor our fee account for work performed to the time of termination of the retainer. The hourly rates for fees are set out in Tariff A for solicitors' fees under Rule 58.05 of the *Rules of Civil Procedure*.

If you mislead us or misrepresent your claim, we reserve the right to ask for an interim payment of fees, and/or a retainer, and/or an increased retainer, or to withdraw our services.

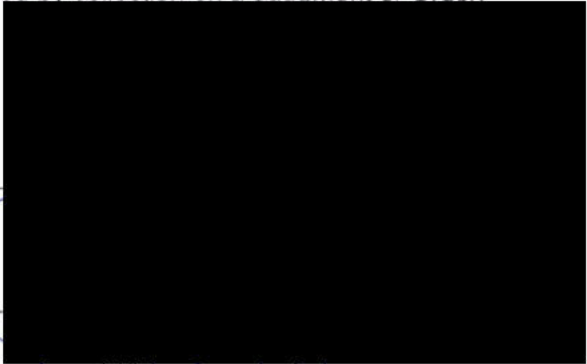
If the matter cannot be settled prior to trial, we will enter into a separate agreement to cover the fees associated with preparation and attendance at trial.

Costs for any appeal of a Judgment or Order, or services rendered by collection on a Judgment or Order, are separate, and will be based on hourly rates not covered by a separate agreement to cover the associated fees.

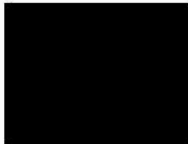
Dated: 2017.03.19

Signature: \_\_\_\_\_

Dated: 2017/9/19/19



Brad Duby



THE TORONTO-DOMINION BANK  
Plaintiff

-and- BRAD DUBY PROFESSIONAL CORPORATION  
Defendant

Court File No. Court File No.: CV-21-00657656-00CL

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
TORONTO

**AFFIDAVIT OF COURTNEY MADISON**

**NAIMARK LAW FIRM**

141 Adelaide Street West, Suite 330  
Toronto ON M5H 3L5

**Ryan Naimark (40960R)**

[rnaimark@naimarklaw.com](mailto:rnaimark@naimarklaw.com)

Tel: 416-366-7246

Lawyers for the Responding Party (new counsel),  
Ryan Naimark Professional Corporation

THE TORONTO-DOMINION BANK  
Plaintiff

-and- BRAD DUBY PROFESSIONAL CORPORATION  
Defendant

Court File No. Court File No.: CV-21-00657656-00CL

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
TORONTO

**MOTION RECORD OF THE RESPONDING PARTY  
(NEW COUNSEL), NAIMARK LAW FIRM**

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Ryan Naimark Professional Corporation