

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

-and-

2668438 ONTARIO INC.

Respondent

NOTICE OF MOTION

The Applicant, The Toronto-Dominion Bank (the “**Applicant**” or the “**Bank**”) will make a Motion to a judge.

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.

at the following location:

On July 21, 2023 at 11:00 a.m., or as soon after that time as the Motion can be heard by judicial teleconference via Zoom at Toronto, Ontario.

THE MOTION IS FOR:

1. An Order abridging the time for filing and confirmation of this Notice of Motion (if necessary);
2. An Order validating service of the Applicant's Notice of Application and Application Record on 2668438 Ontario Inc. (the "**Debtor**") by delivery by e-mail to the email address michael.frontecmetalfab@gmail.com, on June 28, 2023; and
3. Such further and other relief as counsel may advise and this Honourable Court may allow.

THE GROUNDS FOR THE MOTION ARE:

1. The Debtor is a corporation incorporated pursuant to the laws of the Province of Ontario, with its head office located at 287 Deerhurst Drive, Unit A, Brampton, Ontario (the "**Deerhurst Property**") carrying on business as "Frontec Metal Fab".
2. Michael Gonsalves ("**Gonsalves**") is an individual, is a guarantor of the obligations owing by the Debtor to the Bank, and is the sole director of the Debtor.
4. The Bank seeks to have MNP Ltd. ("**MNP**") appointed as Receiver, without security, over all of the assets, undertakings, and properties of the Debtor, by way of the Bank's Notice of Application issued on June 27, 2023.
5. On May, 26, 2023, Matthew Lem of MNP attended the Deerhurst Property and was advised by the owner of the premises that the Debtor had vacated the premises in November 2022.
6. The Bank received a letter from Economical Insurance dated May 30, 2023, addressed to the Debtor at 113 Glenabbey Dr., Courtice, Ontario (the "**Glenabbey Property**").
7. Gonsalves provided to the Bank a Personal Financial Statement and Privacy Agreement dated September 20, 2020, which lists a personal address of 15 Timberwolf Rd., Brampton,

Ontario (the “**Timberwolf Property**”).

8. The Bank has attempted to serve its Notice of Application and Application Record on the Debtor at the Deerhurst Property, the Glenabbey Property and the Timberwolf Property.
9. Counsel for the Bank has also attempted to speak with the Debtor and Gonsalves by calling various telephone numbers listed for each, without receiving a response.
10. The Bank and the Bank’s counsel has had various communications and responses from the Debtor and Gonsalves by way of the e-mail address: michael.frontecmetalfab@gmail.com.
11. The Debtor and Gonsalves received a copy of the Applicant’s Notice of Application and Application Record by way of e-mail on June 28, 2023.
12. The Debtor and Gonsalves are aware of the Bank’s application and the matters at issue.
13. There will be no prejudice to the Debtor if the relief sought is granted.
14. Rules 1.04, 2.01, 16.04, 16.08, and 37, of the Rules of Civil Procedure, R.R.O. 1990, reg. 194.
15. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used:

1. The Affidavit of Kathryn Furfaro, sworn June 9, 2023, and all Exhibits thereto;
2. The Supplementary Affidavit of Kathryn Furfaro, sworn July 14, 2023, and all Exhibits thereto;

3. The Report to the Court submitted by MNP Ltd., in its capacity as Proposed Court-Appointed Receiver dated July 12, 2023; and,
4. Such further and other material as counsel may advise and this Honourable Court may permit.

July 18, 2023

HARRISON PENSA LLP

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The Toronto-Dominion Bank

THE TORONTO-DOMINION BANK

-and-

2668438 ONTARIO INC.

Applicant

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Court File No. CV-23-00701809-00CL

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Proceeding commenced at
Toronto, Ontario

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