

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

ROYAL BANK OF CANADA

Plaintiff

- and -

MARGARET LOIS MORRISON and JOHN ANTHONY MORRISON

Defendants

RESPONDING MOTION RECORD

Dated: January 12, 2024

TOM SERAFIMOVSKI
LSO # 30330T
McTAGUE LAW FIRM LLP
Barristers & Solicitors
455 Pelissier Street
Windsor, Ontario N9A 6Z9
(T) 519-255-4386
(E) tserafimovski@mctague.law

LAWYERS FOR THE DEFENDANTS

TO: FOLGER RUBINOFF LLP
Lawyers
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, Ontario M5K 1G8

RACHEL MOSES
LSO #42081V
(T) 416-864-7627
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LSO #84938G
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LAWYERS FOR THE PLAINTIF

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1. Affidavit of Darwin Harasym sworn January 12, 2024
 - A. **Exhibit "A"** - Agreement of Purchase and Sale

TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

ROYAL BANK OF CANADA

Plaintiff

- and -

MARGARET LOIS MORRISON and JOHN ANTHONY MORRISON

Defendants

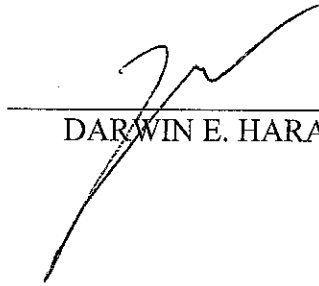
AFFIDAVIT OF DARWIN E. HARASYM

I, Darwin E. Harasym, of the Town of Tecumseh, and Province of Ontario, MAKE
OATH AND SAY AS FOLLOWS:

1. I am a partner with McTague Law Firm LLP, who has been retained by the Defendants, and, as such have knowledge of the matters hereinafter deposed, except where I have received information from others in which case I have disclosed the source of the information and verily believe it to be true.
2. The Defendant, Margaret Morrison, is the owner of the property that is the subject matter of the Plaintiff's motion. Ms. Morrison has provided our office with an Agreement of Purchase and Sale, dated January 3, 2024, to sell the subject property for a price of \$6,000,000.00 (the "APS"). Attached hereto and marked as **Exhibit "A"** to this my Affidavit is a true copy of the Agreement of Purchase and Sale, dated January 3, 2024.

3. The purchase price of \$6,000,000.00 is greater than that amount claimed by the Plaintiff.
4. The APS has a financing condition that is to be lifted by no later than January 29, 2024.
5. The APS has a closing date of February 4, 2024.
6. The Defendants request an adjournment of the Plaintiff's motion to appoint a Receiver over the subject property and request that the Court refrain from appointing a Receiver at this time in order to allow for the subject property to be sold pursuant to the APS.
7. I make this Affidavit in response to the Plaintiff's motion to appoint a Receiver over the subject property and for no other or improper purpose.

SWORN BEFORE ME at the City of)
 Windsor, in the County of Essex and)
 Province of Ontario this 12th day of)
 January, 2024.)
 _____)
 A Commissioner, etc.)



 DARWIN E. HARASYM

Emily Marie Sarah Ryan Harrison,
 a Commissioner etc.,
 Province of Ontario,
 while being a licensed Paralegal.
 LSO #P15543

THIS IS EXHIBIT "A"
REFERRED TO IN THE AFFIDAVIT OF
DARWIN HARASYM
SWORN BEFORE ME THIS 12th DAY
OF JANUARY, 2024



.....

A Commissioner, etc.

Emily Marie Sarah Ryan Harrison,
a Commissioner etc.,
Province of Ontario,
while being a licensed Paralegal.
LSO #P15543



Agreement of Purchase and Sale Commercial

Form 500

for use in the Province of Ontario

This Agreement of Purchase and Sale dated this 3rd day of January, 2024

BUYER: Colin Campbell, agrees to purchase from
(Full legal names of all Buyers)

SELLER: Margaret Morrison, the following
(Full legal names of all Sellers)

REAL PROPERTY:

Address 274 Army Camp Rd Haldimand Ontario N0A 1H0

fronting on the south side of Army Camp Rd.

in the Municipality of Haldimand County

and having a frontage of 67 acres more or less by a depth of 67 acres more or less

and legally described as
Pt Lt 3-4 Con 11 Walpole Pt 1 18R1965 T/W Hc275680

(Legal description of land including easements not described elsewhere)

(the "property")

PURCHASE PRICE: Dollars (CDN\$) 6,000,000.00
Six Million Dollars

DEPOSIT: Buyer submits upon acceptance
(Herewith/Upon Acceptance/as otherwise described in this Agreement)
One Dollars (CDN\$) 1.00

by negotiable cheque payable to Southcoast Realty Limited "Deposit Holder"
to be held in trust pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. For the purposes of this Agreement, "Upon Acceptance" shall mean that the Buyer is required to deliver the deposit to the Deposit Holder within 24 hours of the acceptance of this Agreement. The parties to this Agreement hereby acknowledge that, unless otherwise provided for in this Agreement, the Deposit Holder shall place the deposit in trust in the Deposit Holder's non-interest bearing Real Estate Trust Account and no interest shall be earned, received or paid on the deposit.

Buyer agrees to pay the balance as more particularly set out in Schedule A attached.

SCHEDULE(S) A attached hereto form(s) part of this Agreement.

1. IRREVOCABILITY: This offer shall be irrevocable by Buyer until 11:59 on
(Seller/Buyer) (a.m./p.m.)
the 4th day of January, 2024, after which time, if not accepted, this offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.

2. COMPLETION DATE: This Agreement shall be completed by no later than 6:00 p.m. on the 5th day of
February, 2024. Upon completion, vacant possession of the property shall be given to the Buyer unless otherwise provided for in this Agreement.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

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3. **NOTICES:** The Seller hereby appoints the Listing Brokerage as agent for the Seller for the purpose of giving and receiving notices pursuant to this Agreement. Where a Brokerage (Buyer's Brokerage) has entered into a representation agreement with the Buyer, the Buyer hereby appoints the Buyer's Brokerage as agent for the purpose of giving and receiving notices pursuant to this Agreement. **The Brokerage shall not be appointed or authorized to be agent for either the Buyer or the Seller for the purpose of giving and receiving notices where the Brokerage represents both the Seller and the Buyer (multiple representation) or where the Buyer or the Seller is a self-represented party.** Any notice relating hereto or provided for herein shall be in writing. In addition to any provision contained herein and in any Schedule hereto, this offer, any counter-offer, notice of acceptance thereof or any notice to be given or received pursuant to this Agreement or any Schedule hereto (any of them, "Document") shall be deemed given and received when delivered personally or hand delivered to the Address for Service provided in the Acknowledgement below, or where a facsimile number or email address is provided herein, when transmitted electronically to that facsimile number or email address, respectively, in which case, the signature(s) of the party (parties) shall be deemed to be original.

FAX No.:
(For delivery of Documents to Seller)

FAX No.:
(For delivery of Documents to Buyer)

Email Address:colin.campbell@sympatico.ca.....
(For delivery of Documents to Seller)

Email Address:
(For delivery of Documents to Buyer)

4. **CHATELS INCLUDED:**
unit 17 mortgage to be assigned to buyer

Unless otherwise stated in this Agreement or any Schedule hereto, Seller agrees to convey all fixtures and chattels included in the Purchase Price free from all liens, encumbrances or claims affecting the said fixtures and chattels.

5. **FIXTURES EXCLUDED:**
all fixtures in all buildings.

6. **RENTAL ITEMS (Including Lease, Lease to Own):** The following equipment is rented and **not** included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable:
hwt's in buildings if rental

The Buyer agrees to co-operate and execute such documentation as may be required to facilitate such assumption.

7. **HST: If the sale of the property (Real Property as described above) is subject to Harmonized Sales Tax (HST), then such tax shall be in addition to the Purchase Price.** The Seller will not collect HST if the Buyer provides to the Seller a warranty that the Buyer is registered under the Excise Tax Act ("ETA"), together with a copy of the Buyer's ETA registration, a warranty that the Buyer shall self-assess and remit the HST payable and file the prescribed form and shall indemnify the Seller in respect of any HST payable. The foregoing warranties shall not merge but shall survive the completion of the transaction. If the sale of the property is not subject to HST, Seller agrees to certify on or before closing, that the transaction is not subject to HST. Any HST on chattels, if applicable, is not included in the Purchase Price.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):



8. **TITLE SEARCH:** Buyer shall be allowed until 6:00 p.m. on the 5th day of February, 2024, (Requisition Date) to examine the title to the property at his own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or; (ii) five days prior to completion, to satisfy himself that there

are no outstanding work orders or deficiency notices affecting the property, that its present use (residential, industrial) may be lawfully continued and that the principal building may be insured against risk of fire. Seller hereby consents to the municipality or other governmental agencies releasing to Buyer details of all outstanding work orders and deficiency notices affecting the property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.

9. **FUTURE USE:** Seller and Buyer agree that there is no representation or warranty of any kind that the future intended use of the property by Buyer is or will be lawful except as may be specifically provided for in this Agreement.

10. **TITLE:** Provided that the title to the property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telecommunication services to the property or adjacent properties; and (d) any easements for drainage, storm or sanitary sewers, public utility lines, telecommunication lines, cable television lines or other services which do not materially affect the use of the property. If within the specified times referred to in paragraph 8 any valid objection to title or to any outstanding work order or deficiency notice, or to the fact the said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance save and except against risk of fire (Title Insurance) in favour of the Buyer and any mortgagee, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Brokerage and Co-operating Brokerage shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the property.

11. **CLOSING ARRANGEMENTS:** Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the property, and where the transaction will be completed by electronic registration pursuant to Part III of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electronic Registration Act, S.O. 1991, Chapter 44, and any amendments thereto, the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers. The Seller and Buyer irrevocably instruct the said lawyers to be bound by the document registration agreement which is recommended from time to time by the Law Society of Ontario. Unless otherwise agreed to by the lawyers, such exchange of Requisite Deliveries shall occur by the delivery of the Requisite Deliveries of each party to the office of the lawyer for the other party or such other location agreeable to both lawyers.

12. **DOCUMENTS AND DISCHARGE:** Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the property except such as are in the possession or control of Seller. If requested by Buyer, Seller will deliver any sketch or survey of the property within Seller's control to Buyer as soon as possible and prior to the Requisition Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust And Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same, or cause same to be registered, on title within a reasonable period of time after completion, provided that on or before completion Seller shall provide to Buyer a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, and, where a real-time electronic cleared funds transfer system is not being used, a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.

13. **INSPECTION:** Buyer acknowledges having had the opportunity to inspect the property and understands that upon acceptance of this offer there shall be a binding agreement of purchase and sale between Buyer and Seller.

14. **INSURANCE:** All buildings on the property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):



- 15. PLANNING ACT:** This Agreement shall be effective to create an interest in the property only if Seller complies with the subdivision control provisions of the Planning Act by completion and Seller covenants to proceed diligently at his expense to obtain any necessary consent by completion.
- 16. DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50(22) of the Planning Act, R.S.O.1990.
- 17. RESIDENCY:** (a) Subject to (b) below, the Seller represents and warrants that the Seller is not and on completion will not be a non-resident under the non-residency provisions of the Income Tax Act which representation and warranty shall survive and not merge upon the completion of this transaction and the Seller shall deliver to the Buyer a statutory declaration that Seller is not then a non-resident of Canada;
(b) provided that if the Seller is a non-resident under the non-residency provisions of the Income Tax Act, the Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate.
- 18. ADJUSTMENTS:** Any rents, mortgage interest, realty taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to Buyer.
- 19. TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.
- 20. PROPERTY ASSESSMENT:** The Buyer and Seller hereby acknowledge that the Province of Ontario has implemented current value assessment and properties may be re-assessed on an annual basis. The Buyer and Seller agree that no claim will be made against the Buyer or Seller, or any Brokerage, Broker or Salesperson, for any changes in property tax as a result of a re-assessment of the property, save and except any property taxes that accrued prior to the completion of this transaction.
- 21. TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money shall be tendered with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Lynx high value payment system as set out and prescribed by the *Canadian Payments Act (R.S.C., 1985, c. C-21)*, as amended from time to time.
- 22. FAMILY LAW ACT:** Seller warrants that spousal consent is not necessary to this transaction under the provisions of the Family Law Act, R.S.O.1990 unless the spouse of the Seller has executed the consent hereinafter provided.
- 23. UFFI:** Seller represents and warrants to Buyer that during the time Seller has owned the property, Seller has not caused any building on the property to be insulated with insulation containing urea formaldehyde, and that to the best of Seller's knowledge no building on the property contains or has ever contained insulation that contains urea formaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is the subject of this transaction.
- 24. LEGAL, ACCOUNTING AND ENVIRONMENTAL ADVICE:** The parties acknowledge that any information provided by the brokerage is not legal, tax or environmental advice, and that it has been recommended that the parties obtain independent professional advice prior to signing this document.
- 25. CONSUMER REPORTS: The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.**
- 26. AGREEMENT IN WRITING:** If there is conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement including any Schedule attached hereto, shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein. For the purposes of this Agreement, Seller means vendor and Buyer means purchaser. This Agreement shall be read with all changes of gender or number required by the context.
- 27. ELECTRONIC SIGNATURES:** The parties hereto consent and agree to the use of electronic signatures pursuant to the *Electronic Commerce Act, 2000, S.O. 2000, c17* as amended from time to time with respect to this Agreement and any other documents respecting this transaction.
- 28. TIME AND DATE:** Any reference to a time and date in this Agreement shall mean the time and date where the property is located.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):



29. SUCCESSORS AND ASSIGNS: The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein. SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

..... Colin Campbell
 (Witness)
 Colin Campbell 01/03/24
 (Buyer/Authorized Signing Officer) Colin Campbell (Seal) (Date)

 (Witness)
 (Buyer/Authorized Signing Officer) (Seal) (Date)

I, the Undersigned Seller, agree to the above offer. I hereby irrevocably instruct my lawyer to pay directly to the brokerage(s) with whom I have agreed to pay commission, the unpaid balance of the commission together with applicable Harmonized Sales Tax (and any other taxes as may hereafter be applicable), from the proceeds of the sale prior to any payment to the undersigned on completion, as advised by the brokerage(s) to my lawyer. SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

..... Margaret Morrison
 (Witness)
 Margaret Morrison 01/03/24
 (Seller/Authorized Signing Officer) Margaret Morrison (Seal) (Date)

 (Witness)
 (Seller/Authorized Signing Officer) (Seal) (Date)

SPOUSAL CONSENT: The undersigned spouse of the Seller hereby consents to the disposition evidenced herein pursuant to the provisions of the Family Law Act, R.S.O.1990, and hereby agrees to execute all necessary or incidental documents to give full force and effect to the sale evidenced herein.

..... (Witness) (Spouse) (Seal) (Date)

CONFIRMATION OF ACCEPTANCE: Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally accepted by all parties at 5:27 PM this 01/03/24 day of
 (a.m./p.m.)
 Margaret Morrison
 (Signature of Seller or Buyer)

INFORMATION ON BROKERAGE(S)		
Listing Brokerage	Southcoast Realty Limited	416-518-0404
.....	Colin Campbell	01/03/24
	(Salesperson/Broker/Broker of Record Name)	(Tel.No.)
Co-op/Buyer Brokerage
	(Salesperson/Broker/Broker of Record Name)	(Tel.No.)

ACKNOWLEDGEMENT

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer.
 Margaret Morrison 01/03/24
 (Seller) Margaret Morrison (Date)

 (Seller) (Date)
 Address for Service
 (Tel. No.)
 Seller's Lawyer
 Address
 Email
 (Tel. No.) (Fax. No.)

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer.
 Colin Campbell 01/03/24
 (Buyer) Colin Campbell (Date)

 (Buyer) (Date)
 Address for Service
 (Tel. No.)
 Buyer's Lawyer
 Address
 Email
 (Tel. No.) (Fax. No.)

FOR OFFICE USE ONLY		COMMISSION TRUST AGREEMENT	
To: Co-operating Brokerage shown on the foregoing Agreement of Purchase and Sale:			
In consideration for the Co-operating Brokerage procuring the foregoing Agreement of Purchase and Sale, I hereby declare that all moneys received or receivable by me in connection with the Transaction as contemplated in the MLS® Rules and Regulations of my Real Estate Board shall be receivable and held in trust. This agreement shall constitute a Commission Trust Agreement as defined in the MLS® Rules and shall be subject to and governed by the MLS® Rules pertaining to Commission Trust.			
DATED as of the date and time of the acceptance of the foregoing Agreement of Purchase and Sale.		Acknowledged by:	
..... Colin Campbell 01/03/24		
(Authorized to bind the Listing Brokerage) Colin Campbell		(Authorized to bind the Co-operating Brokerage)	

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Schedule A Agreement of Purchase and Sale – Commercial

Form 500

for use in the Province of Ontario

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: Colin Campbell, and

SELLER: Margaret Morrison

for the purchase and sale of 274 Army Camp Rd Haldimand O Haldimand County

..... dated the 3rd day of January, 2024

Buyer agrees to pay the balance as follows:

The Buyer agrees to pay the balance of the Purchase Price, subject to adjustments, to the Seller on completion of this transaction, with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Lynx high value payment system as set out and prescribed by the Canadian Payments Act (R.S.C., 1985, c. C-21) as amended from time to time.

This Offer is conditional upon the Buyer arranging, at the Buyer's expense, a new First Charge/Mortgage satisfactory to the Buyer in the Buyer's sole and absolute discretion. Unless the Buyer gives notice in writing delivered to the Seller personally or in accordance with any other provisions for the delivery of notice in this Agreement of Purchase and Sale or any Schedule thereto not later than 11:59 PM on the Jan 29, 2024, that this condition is fulfilled, this Offer shall be null and void and the deposit shall be returned to the Buyer in full without deduction. This condition is included for the benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller as aforesaid within the time period stated herein.


This form must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S):

Authentisign
CC

INITIALS OF SELLER(S):

Authentisign
MM

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ROYAL BANK OF CANADA
Plaintiffs

v.

MARGARET LOIS MORRISON et al
Defendants

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
CAYUGA

RESPONDING MOTION RECORD

TOM SERAFIMOVSKI
LSO # 30330T
McTAGUE LAW FIRM LLP
Barristers and Solicitors
455 Pelissier Street
Windsor, Ontario
N9A 6Z9

(T) 519-255-4386
(F) 519-255-4384
tserafimovski@mctague.law

LAWYERS FOR THE DEFENDANTS

File #57579