



SUPERIOR COURT OF JUSTICE
COUR SUPÉRIEURE DE JUSTICE

Commercial List Office

Telephone: (416) 327-5043 Fax: (416) 327-6228

FAX COVER SHEET

Date:

23 FEB 2018

TO:

FAX NO.:

- ① 416-863-1515 - Ian Aversa
- ② 416-863-1515 - Jeremy Nemers
- ③ 416-864-9223 - Rachel Moses
- ④ 416-366-8571 - Michael Citak

FROM: Commercial List Office

TOTAL PAGES (INCLUDING COVER PAGE): 5

MESSAGE:

Justice McEwen decision for file# CV-17-00587514-00CL

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Court File Number: CU-17-00

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Royal Bank of Canada
Plaintiff(s)

AND

2399295 Ontario Inc
Defendant(s)

Case Management Yes No by Judge: _____

Counsel	Telephone No:	Facsimile No:
See Counsel sheet		

- Order Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)
- Adjourned to: _____
- Time Table approved (as follows):

For the reasons below I granted the Approval/Vesting Order and the Discharge Order as per the drafts filed & signed (with reasons to follow). Daimler Truck Financial ("Daimler") sought to adjourn the motion on the basis primarily that the Receiver's Motion Record was deficient for the reasons set out in the letter

23 Feb 18
Date

[Signature]
Judge's Signature

Additional Pages 3

Court File Number: _____

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FILE/DIRECTION/ORDER

Judges Endorsment Continued

sent by its counsel to Receiver's counsel dated Feb 22/18.

I refused to grant the adjournment. In my view, Daimler's requests for further information were of no importance given the clear evidence that the remaining monies to be distributed to the Applic were far below what it is owed. There is no issue that the Applic stands in priority to Daimler and Daimler Concedes that is the case.

I am satisfied that PBC has established in this matter and based on its own Application that the Peop owes it \$1,592,172.45. Even if I am wrong, there is no doubt it is owed approx \$550,000.00 which will almost certainly vastly exceed the amount it expects to recover.

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Judges Endorsment Continued

I also agree with the Receiver that it is not obligated to pursue the guarantees given the limits on the ~~of~~ success - This would only serve to further deplete a modest recovery -

In my view all the requests in the aforementioned letter (I do not propose to deal with each) should not hold up the order sought ^{in the} pending discharge and the pending auction. It can see no harm to Daimler or any other creditor.

Daimler does not oppose the Approval + Vesting Order sought. With respect to the Discharge order it raises the same basic arguments -

As noted I do not accept these submissions. In my view the Receiver and its counsel have

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Judges Endorsment Continued

acted reasonably. The fees sought
 are also reasonable as is the
 suggested method of moving forward
 with respect to the TTC issue auction
 and distribution (and the rest of the order).
 Last I awarded \$7,500.00 in
 costs against Daimler and in
 favour of the Receiver to be pd
 w/in 30 days. Daimler added extra
 costs to the Receivership and took
 attendance.

