

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF 1511419 ONTARIO INC., FORMERLY
KNOWN AS THE CASH STORE FINANCIAL SERVICES INC.,
1545688 ALBERTA INC., FORMERLY KNOWN AS THE CASH
STORE INC., 986301 ALBERTA INC., FORMERLY KNOWN AS
TCS CASH STORE INC., 1152919 ALBERTA INC., FORMERLY
KNOWN AS INSTALOANS INC., 7252331 CANADA INC.,
5515433 MANITOBA INC., AND 1693926 ALBERTA LTD
DOING BUSINESS AS "THE TITLE STORE"

APPLICANTS

**FACTUM OF THE LITIGATION TRUSTEE
(Stay Extension Motion returnable on April 3, 2023)**

March 31, 2023

THORNTON GROUT FINNIGAN LLP
3200-100 Wellington Street West
Toronto, ON M5K 1K7

John L. Finnigan (LSO# 24040L)
Email: jfinnigan@tgf.ca

James P. E. Hardy (LSO#73856R)
Email: jhardy@tgf.ca

VAN KRALINGEN & KEENBERG LLP
500-3 Church Street
Toronto, ON M5E 1M2

Megan Keenberg (LSO# 53735G)
Email: mkeenberg@vklaw.ca

Lawyers for 1511419 Ontario Inc.,
f/k/a The Cash Store Financial Services Inc.

PART I - NATURE OF THE MOTION

1. This is a motion for extension of the stay of proceedings against 1511419 Ontario Inc., formerly known as The Cash Store Financial Services Inc. and the other Applicants (together, “**Cash Store**”).
2. Cash Store, through its Court appointed Litigation Trustee, is pursuing three professional negligence actions against its former auditor, financial advisor, and legal counsel (the “**Defendants**”). The Actions are the only remaining material assets of the Cash Store estate.
3. On November 4, 2022, the parties attended before Chief Justice Morawetz seeking to extend the stay period. While His Honour extended the stay, he did so only until April 3, 2023, expressing a desire to ensure a degree of supervision over the file. At the hearing, Chief Justice Morawetz directed the parties to advance documentary production and agree to a timetable to allow the trial of this matter to be scheduled.
4. Cash Store has heeded Chief Justice Morawetz’ direction. It has completed its documentary review and prepared its documents for production. It has agreed upon a timetable with the Defendants, and it has conducted a case conference before the Honourable Justice McEwen at which a timetable was set to bring this matter to trial in May of 2025.

PART II - THE FACTS

5. The detailed factual background to this matter is set out in the Motion Record of the Monitor and particularly the Affidavit of William E. Aziz sworn March 23, 2023. This factum focuses only on steps taken since the previous stay extension motion.
6. As of the date of the Aziz Affidavit, the document review process was entering its final quality control phase. Since then, Cash Store has completed the review of its documents and is in a position to produce them to the Defendants.¹
7. On March 8, 2023, the parties attended at a case conference before Justice McEwen to set a new timetable for the remaining steps in the Actions.² Ahead of the case conference, the parties agreed to a timetable for the remaining steps in the Actions as follows:

Date	Litigation Phase
March 31, 2023	Parties to complete exchange of documentary productions
TBD upon agreement with the D&Os	Deadline for delivery of documents from D&Os in accordance with the Non-Party Protocol
June 2023	Security for costs motion (if any)
January 31, 2024	Examinations for discovery and third-party examinations to be completed
March 15, 2024	Parties to deliver answers to undertakings
May 31, 2024	Refusals motion to be completed
July 31, 2024	Any re-attendances for examination or answers to written interrogatories to be completed
September 30, 2024	Delivery of Cash Store Expert Report
January 31, 2025	Delivery of Defendants Expert Report
March 31, 2025	Delivery of Cash Store Reply Report
April 2025	Pre-trial conference
May 2025	Six-week trial to commence, subject to Court availability

¹ Motion Record of the Monitor dated March 23, 2023 (“**MR**”), Tab 2, Affidavit of William E. Aziz sworn on March 23, 2023 (“**Aziz Affidavit**”), at para. 27, CaseLines Master No. A125.

² MR, Tab 2, Aziz Affidavit, at para. 28, CaseLines Master No. A125.

8. The timelines for the various steps are consistent with the timetable that was previously agreed upon and ordered by the Court on June 23, 2020.
9. At the case conference, Justice McEwen set the following court dates:
 - (a) A pre-trial conference to be held on April 8 and 9, 2025;
 - (b) A trial to commence on April 28, 2025 and run for six weeks; and
 - (c) Closing submissions to take place on June 23 to 25, 2025.³
10. Since the November 4 motion, litigation counsel have met regularly with counsel to the Monitor to keep it apprised of the progress of the Actions. These meetings will continue.⁴

PART III - THE ISSUE AND ARGUMENT

11. The question on this motion is whether it is reasonable, in the circumstances, that the stay of proceedings against Cash Store be extended for a further five months.
12. Cash Store accepts that its document review process took longer than anticipated. A full explanation for that is included in the Aziz affidavit.
13. Cash Store heeded Chief Justice Morawetz' directions made at the last motion. It has completed its document review process and is in a position to make productions. It has set a timetable to trial. It has kept the Monitor regularly updated. It has made significant progress in advancing the Actions.

³ MR, Tab 2, Aziz Affidavit, at para. 31, CaseLines Master No. A126.

⁴ MR, Tab 2, Aziz Affidavit, at para. 32, CaseLines Master No. A126.

14. The Litigation Trustee continues to advance the actions expeditiously and in good faith. It ought to be given the opportunity to bring these Actions to resolution.

PART IV - RELIEF REQUESTED

15. The Litigation Trustee supports the Monitor's request for an Order extending the stay of proceedings against Cash Store up to and including September 15, 2023.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 31st day of March 2023.



THORNTON GROUT FINNIGAN LLP

3200-100 Wellington Street West
Toronto, ON M5K 1K7

John L. Finnigan (LSO# 24040L)

Email: jfinnigan@tgf.ca

James P. E. Hardy (LSO#73856R)

Email: jhardy@tgf.ca

VAN KRALINGEN & KEENBERG LLP

500-3 Church Street
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Megan Keenberg (LSO# 53735G)

Email: mkeenberg@vklaw.ca

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Applicants

Court File No. CV-14-10518-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
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Proceedings commenced at Toronto, Ontario

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John L. Finnigan (LSO# 24040L)

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