

SUPERIOR COURT OF JUSTICE

COURT FILE NUMBER: CV-09-387286

TITLE OF PROCEEDINGS: 2101641 Ontario Corporation

v

Devdas Suvarna, Geeta Suvarna et al

COUNSEL: Pl. - Absent FAX: _____

Def. - J. Carter _____

ORDER

DIRECTION TO REGISTRAR

FILE DIRECTION/ORDER

The plaintiff defaulted and its pleadings were struck for failure to post security for costs, as ordered.

The defendants seek costs against the plaintiff corporation and its sole directing mind, officer and director Remzi Cere, on the basis that the corporation has no assets and is no longer a "going concern" and that Mr. Cere is the alter ego of the plaintiff company.

I am satisfied, based on the evidence filed, that it is appropriate to pierce the corporate veil and order costs against Mr. Cere personally. His company registered an inflated construction lien, then failed to post security for costs in the agreed upon amount of \$50,000.00. Mr. Cere told Mr. Carter in March 2014

DATE: May 26, 2014

SIGNATURE: [Signature]

MASTER Albert

Additional Pages 2 total

SUPERIOR COURT OF JUSTICE

FILE DIRECTION/ORDER

Master's Endorsement Continued

"Don't waste your time on your motion. My company has n't had a job for years and there are no assets. There is no money. I made the company so people like you couldn't get my money personally."

Mr. Cene is the sole officer and director of the plaintiff. He is the decision maker. He has caused the defendant to incur significant costs. This is exactly the situation that cries out for piercing the corporate veil and I so order.

For reasons endorsed separately, I validated service of this motion on Mr. Cene by ordinary mail.

Costs

The plaintiff's lien claim was for \$456,931.00. ^{It was struck!} ^{plus Fooker's fees} ~~It was struck!~~
 The defendant claims costs fixed at fees of \$41,553[^] on a partial indemnity scale and at \$111,190.00 on a full indemnity scale, plus disbursements of \$11,320.00. Certainly the costs claimed on a full indemnity scale are grossly excessive taking into account the matters in issue, the steps required to achieve a dismissal of the claim, and ~~the matters in issue~~ preparation required, including the parties' proposed 29 trial witnesses.

Taking into account relevant factors, including principles of indemnification, results achieved, importance of the issues, whether steps taken (in this case by the plaintiff) were unnecessary or vexatious, proportionality, and other relevant factors,

costs of the action are fixed at \$30,000 for fees plus \$3,900 HST plus \$11,320.00 disbursements for a total of \$45,220.00 costs payable by 2101641 Ontario Corporation and Renzi Cene jointly and severally to Dardas Suvarna, Geeta Suvarna and Aatish Suvarna. Approval of the final judgment as to ~~costs is~~ form and content on the issue of costs is dispensed with.

2101641 ONTARIO and SUVARNIA et al
 CORPORATION Defendants / Plaintiffs by Counterclaim
 Plaintiff / Defendant by Counterclaim

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May 26, 2014

Based on the affidavits of C. Segovina dated May 23, 2014 and May 26, 2014, I am satisfied that it is appropriate to validate Service of the motion seeking an order for costs against Henry, Lane personally, and to accept as appropriate service the attempts to serve him by ordinary mail, regular mail and courier. Mr. Lane provided to the court as his address for service an address of a property he (or his wife) had sold prior to his court appearance. The court draws the inference that he would have provided his new address for service to the post office so that mail would be forwarded to him at his new address. I am satisfied that documents served on him by ordinary mail ought reasonably to have come to his attention. I am also satisfied that, based on his attempts to evade service, personal service of the motion on him can be and ought to be substituted by service by ordinary mail, which has been done.

C. Albert, M.

ONTARIO
 SUPERIOR COURT OF JUSTICE

Proceeding commenced at TORONTO

MOTION RECORD

CARTERS PROFESSIONAL CORPORATION

Brookfield Place, TD Canada Trust Tower
 161 Bay Street, 27th Floor
 Toronto, ON M5J 2S1

Sean S. Carter
 LSUC #: 56728K
 Tel: (416) 675-3766
 Fax: (416) 675-3765

Lawyer for the Defendants / Plaintiffs by Counterclaim