



**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-23-00707839-00CL

DATE: November 13, 2024

NO. ON LIST: 5

TITLE OF PROCEEDING: KEB HANA BANK v. MIZRAHI COMMERCIAL (THE ONE) LP

BEFORE: JUSTICE OSBORNE

PARTICIPANT INFORMATION

For Plaintiff, Applicant:

Name of Person Appearing	Name of Party	Contact Info
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For Defendant, Respondent:


Name of Person Appearing	Name of Party	Contact Info
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For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Jeffrey Simpson	Counsel for Core Architects	jsimpson@torkinmanes.com
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David Levangie	Counsel for Coco International Inc. and 12823543 Canada Ltd	dlevangie@foglers.com

ENDORSEMENT OF JUSTICE OSBORNE:

- [1] Mizrahi Inc. brought a motion for an order compelling the Receiver to pay its fees and costs for post receivership work, and relies on paragraph 17 of the Receivership Order. The Receiver has brought a cross motion for set off against Mizrahi Inc., and takes the position that Mizrahi Inc. is not entitled to any further payment.
- [2] As I advised the parties at the conclusion of this scheduling case conference, these motions can and should be heard together, for the reasons set out in my Endorsement of March 18, 2024.
- [3] Aside from the fact that I have already determined this issue, I remain satisfied that it would be practically impossible, and certainly inefficient, to attempt to separate the issues and facts underlying both motions. Moreover, hearing the Mizrahi motion in February, which would not finally determine the issues between the parties in any event, and then hearing the Receiver's motion a few months later, reinforces my conclusion that there is no significant delay or timesaving factors at play here, and certainly none that outweighs the clear inefficiencies of the motions proceeding separately.
- [4] The parties have agreed on the following case management schedule for the delivery of materials and other steps in respect of these two motions:
- MI's Responding Motion Record: January 20, 2025;
 - Written questions posed to the Receiver: by January 20, 2025
 - Reply or Supplementary Motion Records: February 28, 2025;
 - Responses to written questions posed to the Receiver: February 28, 2025;
 - Cross-Examinations: by March 28, 2025;
 - Moving Factums from MI and Receiver: April 18, 2025;
 - Responding Factum of MI and the Receiver: May 9, 2025;
 - Reply facta, if any, May 16, 2025; and
 - Motions to be scheduled on mutually available dates after May 19, 2025.
- [5] I will liaise with the Commercial List Trial Coordinator, to canvas Court availability next spring/early summer. The Receiver is of the view that two days will be required; Mizrahi submits that five days will be required.

Osborne, J.