District of Ontario

Division No.

Court No.

Estate No.

***ONTARIO***

**SUPERIOR COURT OF JUSTICE**

**IN BANKRUPTCY AND INSOLVENCY**

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| REGISTRAR • | ) | •DAY, THE • DAY |
|  | ) |  |
|  | ) | OF •, 20• |
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IN THE MATTER OF THE BANKRUPTCY OF •
[**STYLE OF CAUSE**]

AND IN THE MATTER OF A [**PROPOSED]** ACTION

Court File No. •

B E T W E E N :

**[NAME OF PLAINTIFF]**

PLAINTIFF

— and —

**[NAME OF DEFENDANT/BANKRUPT]**

DEFENDANT

**ORDER**

 THIS MOTION made by **[NAME OF PLAINTIFF]**, for an order declaring that the stay of proceedings pursuant to Section 69.3 of the *Bankruptcy and Insolvency Act* does not operate in respect of an action commenced by **[NAME OF PLAINTIFF]** against **[NAME OF BANKRUPT]** and **[NAMES OF DEFENDANTS]** bearing Court File No. •, was heard this day at •.

 ON READING the pleadings and proceedings in the action, the consent of **[NAME OF TRUSTEE]** and the affidavit of **[NAME OF DEPONENT]** sworn **[DATE]** and on hearing the submissions of counsel for **[NAME OF PLAINTIFF]** and counsel for **[NAMES OF ANY OTHER PARTIES ATTENDING]**,

1. THIS COURT ORDERS and declares that the stay of proceeding pursuant to Section 69.3 of the *Bankruptcy and Insolvency Act* shall no longer operate in respect of the action ***[or the proposed action to be]*** commenced by **[NAME OF PLAINTIFF]** against **[NAME OF BANKRUPT]** and **[NAME OF PLAINTIFF]** is authorized to continue to prosecute its action ***[commence an action (, as the case may be)]*** against **[NAME OF BANKRUPT]** and to add the Trustee of the Estate of **[NAME OF BANKRUPT]** as a party defendant.
2. THIS COURT ORDERS that the right of **[NAME OF PLAINTIFF]** to prosecute its claim against the bankrupt shall be for the purpose only of establishing the amount for which it is entitled to prove in the bankruptcy of **[NAME OF BANKRUPT]** as an unsecured claim.
3. THIS COURT ORDERS that, if the trustee does not defend the action, it shall not be subject to discovery or production of documents nor shall any costs be awarded against it.

**[If the bankrupt is an individual person as distinguished from a corporation, the following paragraph should be added: ]**

1. THIS COURT ORDERS that, unless the debt or liability under any judgment obtained in the action to be commenced [**continued (, as the case may be)**] is one from which a bankrupt is not released as provided in subsection 178(1) of the Bankruptcy and Insolvency Act, the same shall be released by the discharge of **[NAME OF BANKRUPT]**.

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