

ONTARIO  
SUPERIOR COURT OF JUSTICE  
ESTATES LIST

THE HONOURABLE  
JUSTICE PENNY

) WEDNESDAY, THE 9<sup>TH</sup> day of  
)  
) MARCH, 2016



IN THE MATTER OF THE ESTATE OF PAUL ZIGOMANIS, deceased

~~B E T W E E N:~~

GAIL MacDONALD

Applicant

- and -

VIOLET COOPER

Respondent

ORDER

THIS MOTION by Jonathan Cooperman, the estate trustee during litigation of the estate of Paul Zigomanis (the "**Trustee**"), brought on consent of both the Applicant and the Respondent for an order approving the Trustee's proposed method of service, was heard on the 9<sup>th</sup> day of March, 2016, at 330 University Avenue, Toronto, Ontario.

ON READING the draft notice of motion (the "**Notice of Motion**") attached hereto as Schedule "A" and the Trustee's First Report, and on hearing the oral submissions of counsel for the Trustee,

a) THIS COURT ORDERS that the Trustee shall:

- i. advertise the relief sought in the Notice of Motion in a major Toronto newspaper, indicating the Notice of Motion and supporting materials are on the Trustee's website at [www.farberfinancial.com](http://www.farberfinancial.com);
- ii. physically post weather-proof signage of the Notice of Motion at 3356 Brimley Road, Scarborough, Ontario ("**Brimley**"), indicating the Notice of Motion and the supporting materials are on the Trustee's website at [www.farberfinancial.com](http://www.farberfinancial.com); and
- iii. post the Notice of Motion and supporting materials on the Trustee's website at [www.farberfinancial.com](http://www.farberfinancial.com)

b) THIS COURT ORDERS that the Trustee shall serve the Notice of Motion only on the following potential affected parties:

- i. all residents living within a 150 meter radius of Brimley;
- ii. parties that contacted the Office of the Fire Marshal requesting their report;
- iii. parties that contacted Aviva Insurance Company of Canada; and
- iv. the twenty-eight (28) neighbouring homes that were damaged by the Explosion identified by the Toronto Fire Department's Emergency Incident Report.

c) THIS COURT ORDERS that the Trustee shall serve those affected parties identified in b) above, and anybody who requests a copy, with the Notice of Motion by first class mail or electronic mail, where applicable, in place of personal service, and the supporting

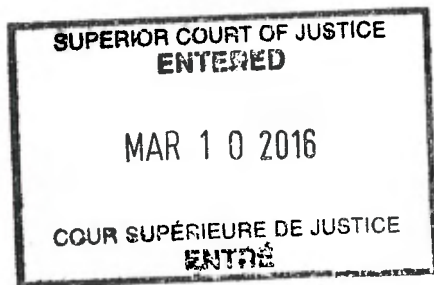
materials, only if requested, according to the affected party's preferred format, including first class mail, electronic mail and/or being directed to the Trustee's website;

d) THIS COURT ORDERS that once the Trustee has taken the steps to effect service as set out in paragraphs (a) – (c) above:

i. all affected parties are deemed to have been served with the Notice of Motion and supporting materials after ten (10) business days; and

ii. the affected parties served with the Notice of Motion and supporting materials shall be provided with a minimum of twenty (20) business days in which to respond; and

e) THIS COURT ORDERS that the Office of the Fire Marshal release the names to the Trustee of the parties who have requested a copy of the Office of the Fire Marshal's report forthwith. The Office of the Fire Marshal shall have ten (10) business days from receipt of this Order in which to provide notice to the Trustee of any further terms and conditions they require to this Order and shall have leave to seek such amendments if so advised.



A handwritten signature in blue ink, appearing to be "R. J.", written over a horizontal line.

**SCHEDULE "A"**

Court File No. 05-145-15

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
ESTATES LIST**

IN THE MATTER OF THE ESTATE OF PAUL ZIGOMANIS, deceased

**B E T W E E N:**

GAIL MacDONALD

Applicant

- and -

VIOLET COOPER

Respondent

**NOTICE OF MOTION**

Jonathan Cooperman, the estate trustee during litigation (the "**Trustee**") of the estate of Paul Zigomanis ("**Paul's Estate**"), will make a motion to a judge on [●], 2016 at 10:00 am or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR:**

- f) An order declaring that the property municipally known as 3356 Brimley Road, Scarborough, Ontario (the "**Brimley House**"), and registered on title in the names of John and Mary Zigomanis, was and has been held in trust for Paul Zigomanis ("**Paul**") since August 1, 1996.

- g) An order declaring that title to the Brimley House be transferred to the Trustee of Paul's Estate effective January 1, 2015, being the day following the death of his father, John Ziogmanis;
- h) Such further and other relief as this Honourable Court considers just.

**THE GROUNDS FOR THE MOTION ARE:**

*Trustee's Ability to Bring Motion*

1. On an application brought by the Applicant, and by an Order of the Honourable Justice Conway dated October 14, 2015, Mr. Cooperman of A. Farber & Partners Inc. was appointed Trustee of all property and assets, including all proceeds thereof, of Paul's Estate.

*Brimley House Held in Trust for Paul*

- 2. Paul died on April 20, 2015, killed in an explosion at his place of residence, the Brimley House. Paul obtained the Brimley House in May 1991 and lived there until he died.
- 3. On August 1, 1996, registered title to the Brimley House was transferred from Paul to his parents, John and Mary Zigomanis ("**John**" and "**Mary**") to be held in trust for Paul due to his history with drug use. It was their intent to protect the Brimley House on Paul's behalf until he was fit to control ownership once again. Although no formal trust documents were ever signed, it was always understood by everyone in the Zigomanis Family (as defined hereafter) that Paul was the true beneficial owner.
- 4. Mary died in March 2013, leaving her estate solely to John. John died on December 31, 2014, dividing the remainder of his estate ("**John's Estate**") equally among his three children,

namely Paul, Gail MacDonald ("**Gail**") and Violet Cooper ("**Violet**") (and together with John and Mary, collectively the "**Zigomanis Family**"). Paul's sister, Gail, was appointed the trustee of John's Estate on March 18, 2015.

5. As estate trustee of John's Estate, Gail knew that Paul was the rightful beneficial owner of the Brimley House and, with the consent of Violet, directly took steps to transfer registered title of the Brimley House to Paul. This was consistent with the understanding that the Brimley House was held in trust for Paul. Unfortunately, Paul died before the transfer was complete.

### *The Brimley House Explosion*

6. The explosion completely destroyed the Brimley House. The Office of the Fire Marshal conducted an investigation into the explosion and completed their report (the "**FMO Report**") on February 10, 2016. The FMO Report concluded that the explosion was fueled by natural gas; specifically, that the natural gas union that formed part of the supply piping to the hot water heater was separated at some point in time prior to the explosion. This allowed for natural gas to flow into the interior of the Brimley House.

7. The explosion also caused extensive damage to a number of surrounding homes. Litigation arising from the other homeowners who suffered damages from the explosion will likely ensue. Four (4) claims have already been received by Aviva Insurance Company of Canada, the insurer of the Brimley House.

8. The recognition that Paul was and is the proper owner of the Brimley House and that it was held in trust for him since August 1, 1996, is important given these events.

***Rules, Legislation, and Other Grounds***

9. The Trustee relies on:

- (a) Rules 1.04, 1.05, 37, 39, 59.01, 74 and 75 of the *Rules of Civil Procedure*,
- (b) Such further and other grounds as counsel may advise and this Honourable Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- (a) Affidavits to be filed;
- (b) Report(s) of Jonathan Cooperman, Trustee of Paul's Estate, to be filed; and
- (c) Such further and other evidence as counsel may advise and this Honourable Court may permit.

[●], 2016

**BENNETT JONES LLP**  
3400 One First Canadian Place  
P.O. Box 130  
Toronto, Ontario  
M5X 1A4

**Lincoln Caylor** (LSUC #37030L)  
Email: caylorl@bennettjones.com

**Grace McKeown** (LSUC #67851F)  
Email: mckeowng@bennettjones.com

Lawyers for the moving party, Jonathan  
Cooperman, Estate Trustee During Litigation of  
the Estate of Paul Zigomanis

GAIL MCDONALD  
Applicant

- and -

VIOLET COOPER  
Respondent

Court File No. 05-145-15

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**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

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**NOTICE OF MOTION OF JONATHAN  
COOPERMAN, ESTATE TRUSTEE DURING  
LITIGATION OF THE ESTATE OF PAUL  
ZIGOMANIS**

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**BENNETT JONES LLP**  
One First Canadian Place  
Suite 3400, P.O. Box 130  
Toronto, ON M5X 1A4

**Lincoln Caylor** (LSUC #37030L)  
Email: [caylorl@bennettjones.com](mailto:caylorl@bennettjones.com)

**Grace McKeown** (LSUC #67851F)  
Email: [mckeowng@bennettjones.com](mailto:mckeowng@bennettjones.com)

Tel.: (416) 863-1200  
Fax: (416) 863-1716

Lawyers for Jonathan Cooperman, the Estate  
Trustee During Litigation





GAIL MCDONALD

- and -

VIOLET COOPER

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Respondent

Court File No. 05-145-15

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**ORDER**

**BENNETT JONES LLP**  
One First Canadian Place  
Suite 3400, P.O. Box 130  
Toronto, ON M5X 1A4

**Lincoln Caylor (LSUC #37030L)**  
Email: caylorl@bennettjones.com

**Grace McKeown (LSUC #67851F)**  
Email: mckeowng@bennettjones.com

Tel.: (416) 863-1200  
Fax: (416) 863-1716

Lawyers for Jonathan Cooperman, the Estate Trustee  
During Litigation