

**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**

**IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER
STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993
ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650
ONTARIO INC.**

SUPPLEMENTARY MOTION RECORD

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and 2203579 Ontario Inc., carrying
on business as Foremont Drywall
Contracting

TO: SERVICE LIST

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TAB	DOCUMENT
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1	Affidavit of Mary Montagner sworn on September 23, 2014
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SUPPLEMENTARY AFFIDAVIT OF MARY MONTAGNER

I, Mary Montagner of the City of Vaughan in the Province of Ontario, MAKE OATH AND SAY:

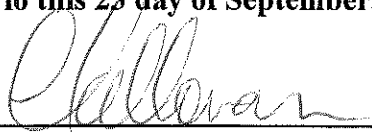
1. I am one of the managing partners of Foremont Drywall Inc., 1382479 Ontario Inc., 1382503 Ontario Inc. and 2203579 Ontario Inc. carrying on business as Foremont Drywall Contracting (collectively referred to as the "**Plaintiffs**"), and as such have knowledge of the matters hereinafter deposed to.
2. I have reviewed the Affidavit of Imran Jinnah sworn August 12, 2014 ("Jinnah Affidavit"). With respect to paragraph 14 of the Jinnah Affidavit, I deny that the Escrow Agreement dated December 17, 2012 was intended to and did replace the Minutes of Settlement that were executed by the parties in the action commenced in the Newmarket Superior Court of Justice under Court File No. 11-102579 (the "**Foremont Action**").
3. At the time that the Escrow Agreement was executed, there was no agreement that the Minutes of Settlement would be replaced by the Escrow Agreement. There were no

discussions about the Escrow Agreement replacing the Minutes of the Settlement. I note that Imran Jinnah and Asma Jinnah are not parties to the Escrow Agreement.

4. Prior to the Escrow Agreement being executed, I was told by Imran Jinnah that the work completed for Phase 1 would be paid upon the closing of the Phase 2 homes if we continued to work on the development. The Plaintiffs completed work for Phase 2 and started on Phase 3 in good faith based on what Mr. Jinnah told me. It was when we started Phase 3 that the Escrow Agreement was being put in place. The Plaintiffs continued to work on the development despite not being paid because the Escrow Agreement was supposed to ensure that they would get paid.
5. With respect to paragraph 15 of the Jinnah Affidavit, the Escrow Agreement does not state that it replaces the Minutes of Settlement. It also does not address existing actions such as the Foremont Action, which was started on January 21, 2011.
6. With respect to paragraphs 25 to 30 of the Jinnah Affidavit, the Plaintiffs submitted a claim in the within CCAA proceeding to avoid any prejudice to any claims that they have against the Defendants. The Foremont Action was commenced two years before the within CCAA proceedings. The suggestion that the Plaintiffs should have to wait and prove their claim in the within CCAA proceedings in order to recover monies that they are currently entitled to under the Minutes of Settlement is without merit. The judgment against the Defendants will not be rendered "moot" as suggested in paragraph 30 of the Jinnah Affidavit because the Plaintiffs will have at least obtained judgment against Imran Jinnah and Asma Jinnah, who are not parties to the CCAA proceedings.

7. I make this Affidavit in support of the within motion and for no other or improper purpose.

Sworn before me at the City
of Vaughan in the Province of
Ontario this 23 day of September, 2014


Christine Kellowan
A Commissioner, etc.

) 
) MARY MONTAGNER
)

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAM HOMES INC., SILVER
STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND
2147650 ONTARIO INC.

Court File No. 13-10362-00-CL

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Proceeding Commenced at Toronto

AFFIDAVIT OF MARY MONTAGNER

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