ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-25-00743485-00CL **DATE: October 31, 2025**

NO. ON LIST: In Writing

TITLE OF PROCEEDING: ARBAT CAPITAL GROUP LTD v. THE SECOND CUP COFFEE COMPANY INC. *et al*

BEFORE: JUSTICE MYERS

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Gavin Finlayson	Arbat Capital Group Limited	gfinlayson@millerthomson.com
Matthew Cressatti	Arbat Capital Group Limited	mcressatti@millerthomson.com

For Defendant, Respondent, Responding Party:

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
Monique Sassi	Counsel for Grant Thornton Limited, The Monitor	msassi@cassels.com
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ENDORSEMENT OF JUSTICE MYERS:

1) I received an email this morning from counsel to the Monitor. It was copied only to counsel for Arbat. The body of the email is set out in the appendix to this endorsement.

2) The delivery of a communication to the court in this manner does not comply with Rule 1.09 of the *Rules of Civil Procedure* and is improper.

3) I do not necessarily accept that I misunderstood the submission made to me. Subject to being corrected, I believe that in response to a direct question, I was told that Arbat had a sufficient number of positions to carry the 50% plus one requirement for plan approval under the *CCAA*.

4) I direct counsel who were present at the hearing to communicate to determine if anyone believes that anything ought to be done and, if so, what that might be. I can be reached to convene an urgent case conference at 8:30 a.m. any day next week if necessary.

Date: Oct 31, 2025

F.L. Myers J.

Justice FL Myers

Digitally signed by Justice FL Myers
Date: 2025.10.31 08:46:14 -04'00'

APPENDIX "A"

Justice Myers,

The Monitor and counsel to the Purchaser have reviewed the attached endorsement in the above noted matter and wanted to immediately advise you of a factual error arising from submissions today which has come to our attention. Upon receipt of your endorsement I reached out to counsel for the Purchaser, Mr. Finlayson and Mr. Cressatti, and they are copied on this email and are in agreement with the contents of this email. The Monitor is copied on this email too. We are cognizant of our duties to the Court and would like to correct the record. We further understand this correction may change your reasoning and/or endorsement and the relief granted.

Paragraph 12 of the enforcement states that:

> "Mr. Finlayson submits that it has well more than 66 2/3% of the value of unsecured claims and a majority in number of unsecured creditors. The Monitor did not disabuse me of that submission".

The Monitor has gone back and double checked the claims register and while the Purchaser entities hold approximately 96% of the of value of unsecured claims they do not have a majority in number if this proceeded to a vote on a plan today. Based on the Monitor's current review of the claims, the Purchaser entities comprise of three separate creditors and thus would control three votes. There are twelve accepted unsecured creditor claims which would be eligible to vote. A Claims Process Tracking Sheet is enclosed.

Mr. Finlayson has advised that he intended for his submission to convey that the Purchaser entities held multiple claims but he appreciates that this was communicated poorly in the heat of submissions and was misunderstood to reflect a majority in number of claims. With regret, the Monitor did not have the Claims Process Tracking Sheet that is enclosed on hand at the time to correct this submission.

The Purchaser entities have advised the Monitor that, had this matter proceeded by way of a Plan of Arrangement, the Purchaser entities would have either purchased the remaining unsecured creditor claims for 100c on the dollar (being approximately $380,866), or would structure the Plan to include a "Convenience Class" that would include sufficient votes to bring the support level to or above the additional votes needed for a successful vote. This would require a Convenience Class threshold of $4,808. Based on this the Purchaser has advised that the net result would have been the same.

The foregoing being said, this correction may impact the Court's reasoning and decision and myself and Purchaser's counsel will make ourselves available to attend before you at any time to speak to this further.

Mr. Finlayson has asked the Monitor to convey his sincere apologies to the Court and that it was not his intent to deceive the Court or provide it with incorrect information. I also apologize for not having the claims register on hand to correct his inadvertent submissions. We of course, are prepared to attend personally to directly provide these apologies.

I have not copied the entire service list on this communication but will take Your Honour's direction on whether you would like me to circulate this to the Service List. I note the claims register is not in the public record so I would propose not to circulate that more broadly.

I again, apologize for this misunderstanding.

Thank you.

Monique [Sassi]