

Case Name:
Jakubcsik v. Campabasso

Between
William Jakubcsik et al, plaintiffs, and
Luciano Campabasso, defendant

[2005] O.J. No. 1473

Court File No. 04-CL-005590

Ontario Superior Court of Justice

J.D. Ground J.

Heard: April 11, 2005.
Oral judgment: April 14, 2005.

(5 paras.)

Civil procedure -- Judgments and orders -- Drawing up and settling.

Application to determine the payment of certain legitimate accounts related to a construction project. The court sought to resolve this issue pending the hearing of motions brought by both parties.

HELD: Application allowed. The motions were adjourned to a specific date. All payments of amounts to suppliers, contractors and trades with respect to the project which were certified by the engineers were to be paid forthwith. With the exception of three trade accounts the defendants were to provide to the plaintiffs all invoices and up to date accounts in their possession. The plaintiffs were to advise the defendants within 10 days as to their position with respect to these accounts. Unresolved matters were to be determined at the return date of the motions. Regarding the three accounts the plaintiffs were to advise the defendants of their position regarding their payment. If this matter was not resolved it would be addressed at the return date of the motions. Cross-examinations were to be completed on dates set by the court.

Counsel:

George Vella for the Plaintiffs

Paul Starkman for the Defendant

ORAL REASONS

1 J.D. GROUND J. (orally):-- It is my view that, in spite of the continuing disputes between the parties in this action and apparently in a separate application threatened to be brought by the Plaintiffs, the question of payment to persons who have legitimate accounts relating to the Victory Estates Whitby Project must be resolved and the bickering on this matter has gone on far too long.

2 The Plaintiffs have raised specific concerns as to three accounts being Ani-Wall, Canak and Forest Trim. In addition, they raise general concerns as to invoices that have been submitted not referring to the correct project and going back some period of time. They also wish to cross-examine Mr. Letros and Mr. Shain on their affidavits in support of the Defendants' motion now before this court.

3 Accordingly, an order will issue that, subject to the following dispositions of matters before the court today, both motions are adjourned to May 11, 2005 on the following terms:

1. All payments of amounts to suppliers, contractors and trades with respect to the Victory Estates Whitby Project which have been certified by the engineers Sernas Associates will be paid forthwith.
2. All trade accounts, other than Ani-Wall, Canak and Forest Trim, will be dealt with as follows:
 - (a) Defendants to provide to the Plaintiffs all invoices and up-to-date accounts in their possession relating to these claims;
 - (b) Plaintiffs to advise Defendants within 10 days of receipt as to their position with respect to these account;
 - (c) Matters not resolved will be determined by the court on the return of these motions on May 11, 2005.
3. The Plaintiffs to advise the Defendants within 14 days of today's date as to their position on payments to Ani-Wall, Canak and Forest Trim and on the payment to Labanovich, or companies controlled by him, of the amount of \$250,000 and interest thereon referred to in paragraph 23 of the affidavit of Mr. Letros and if the payment of such amounts are not resolved between the parties, these matters will be determined by the court on the return of these motions on May 11, 2005.

4 Cross-examinations are to be completed on the morning of April 25, 2005 and all day on May 2, 2005 subject to the parties agreeing on different or further times.

5 The costs of today's attendance are reserved to the judge disposing of the motions on the return date of May 11, 2005.

J.D. GROUND J.

cp/e/qlmxd