



SUPERIOR COURT OF JUSTICE

**COUNSEL SLIP**

COURT FILE NO.: CV-20-00637427-00CL DATE: 16 September 2022

NO. ON LIST: 3

TITLE OF PROCEEDING: **LIQUID CAPITAL EXCHANGE CORP. v. 1635536 ONTARIO  
INC. O/A VERSITEC MARINE & INDUSTRIAL**  
BEFORE JUSTICE: **MADAM JUSTICE CONWAY**

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party, Crown:**

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**ENDORSEMENT OF JUSTICE CONWAY:**

This is a motion by LCX for judgment against Mr. Byrd on his guarantee of Versitec's debt to LCX. Mr. Byrd takes the position, as a defence to his guarantee, that there was no underlying debt from Versitec to LCX.

As a preliminary matter, LCX says in its notice of motion that Mr. Byrd should not be able to challenge the amount of the underlying debt at all. It says that this issue was already determined in the Versitec receivership proceeding and that his challenge is barred by *res judicata* and related doctrines. Mr. Byrd disputes that the quantum of the debt has been decided by the court.

This was originally booked as a threshold issue to be determined with the hearing on the amount of the debt to proceed on December 19 and 20 (unless the threshold issue was decided against Mr. Byrd). After considering the matter and discussing it with counsel, I am of the view that the entire motion should proceed as one, rather than bifurcating it. It seems like a far more efficient use of court resources to address all issues at one time instead of in stages. **I will remain seized of the motion and will hear it on January 16 to 18, 2023 (confirmed with the CL office – December 19 and 20 hearing adjourned to the January dates)**. All issues on the motion will be argued at that time. The motion will proceed on that date – there will be no further adjournments.

There is a scheduling appointment on September 21, 2022 with respect to a motion to be brought by Mr. Morgan seeking, among other things, recharacterization of his expert report as a receiver's report and replacing his affidavit with a further report. It would be of assistance if this motion could be heard in October or early November so that it will not jeopardize the January dates.

If further directions are required by counsel, they may book a scheduling appointment before me through the CL office.

A handwritten signature in blue ink, appearing to read "Conway J.", is located at the bottom left of the page.