Superior Court of Justice

Toronto

Case History Report

04-CV-274284SR Riana Contracting Limited vs. Domenic Carchidi

Filing Type:	Statement of Claim	*Filing Date:*	Aug 18, 2004
Case Type:	Civil - Coll. of Liquidated Debt	*Age:*	1167
Official:	Fedson	*Disposed:*	Sep 21, 2004
Disp Type:	Default Judgment		
Disp Manr:	Before Trial Hearing		
Mon Value:	$6,000 to $24,999	*Bilingual:*	No
Simp Rules:	No		
TMS Group:	Simplified Rules		
Jury/Non Jury:	Non Jury		
Orig. Court:	Toronto		

PAYNE RICHARD JOSEPH Solicitor for Plaintiff Phone: (416) 224-941 Fax: 4162249313

Representing: Riana Contracting Limited, Plaintiff

Unrepresented

Carchidi, Domenic, Defendant

Track: **Simplified Rules**

Date	***Activity***	
Aug 18, 2004	**Case Filed** Civil - Coll. of Liquidated Debt Statement of Claim Toronto Disposition: Default Judgment Disposition Stage: Before Trial Hearing Disposition Date: Sep 21, 2004	
Aug 18, 2004	**Received** Gen-Originating Document Payment by Solicitor Cheque Received from: Morrison and Payne	Amount: $157.00 Receipt #: 891012
Sep 21, 2004	**Received** Gen-Default Judgment Payment by Solicitor Cheque Received from: MORRISON AND PAYNE	Amount: $90.00 Receipt #: 900448
Sep 21, 2004	**Document Filed** Requisition for Default Judgment Filed By: Riana Contracting Limited Filed Against: Carchidi, Domenic, Defendant	
Sep 19, 2005	**Received** Gen-Garnishment Payment by Solicitor Cheque	Amount: $115.00 Receipt #: 1010837

Date	Activity
	Received from: MORRISON AND PAYNE
Sep 19, 2005	
Sep 19, 2005	
Oct 6, 2005	**Received** Gen-Notice of Motion — Amount: $127.00 Payment by Solicitor Cheque — Receipt #: 1016974 Received from: MORRISON AND PAYNE
Nov 9, 2005	**Event** Motion - Contempt of Court 10:00am Est. Dur.: 1.00 Hour(s) The Honourable Madam Justice Pepall Date Scheduled: Jul 28, 2005 Result: Completed (see memo) — Result Date: Nov 9, 2005 Fees Paid: Yes Moving Party: Riana Contracting Limited bb Richard Payne 224-9968 sol for plff.FORM 76B & MOTION RECORD FILED OCT. 6/05 See Text for endorsement of Nov.9/05; materials sent for filing. November 9, 2005 ENDORSEMENT "The defendant failed to attend at an examination in aid of execution on Feb. 18, 2005. He is ordered to attend for an examination on December 2, 2005 at 10am at the offices of A.C. Devenport, Official Examiner, 65 Queen Street West, Toronto, Ontario M5H 2M5. If Mr. Carchidi fails to attend, he should be aware that the plaintiff intends to request an order for contempt of court from the court pursuant to Rule 60.11, a judge may order that a person in contempt be imprisoned amongst other things. This endorsement is to be served personally on Mr. Carchidi. Costs of today, the failed attendance & the motion are to be paid by Mr. Carchidi fixed in the amount of $400."
Mar 9, 2006	**Received** Gen-Notice of Motion — Amount: $127.00 Payment by Solicitor Cheque — Receipt #: 1063716 Received from: MORRISON
Apr 7, 2006	**Event** Motion - Contempt of Court 10:00am Est. Dur.: 1.00 Hour(s) Act. Dur.: 1.00 Hour(s) The Honourable Mr. Justice Perell Date Scheduled: Jan 16, 2006 Result: Completed (see memo) — Result Date: Apr 7, 2006 Fees Paid: Yes Moving Party: Riana Contracting Limited bb R. Payne sol for pla 416-224-9968; SOL. FOR PLFF. FILED M/R WITH FORM 76B-MAR.9/06...TEXT This is a motion to have Mr Carchidi fount in contempt for failure to obey an order that he attend at a judgmt d ..... examination. Mr Carchidi appealed in person and the parties argue to an adjmt of this motion sine die on the following terms: (1) that Mr Carchidi attend at a judgmt debtor examination today's (2) that Marchidi pay costs for the examination for which he failed to attend, for the costs of the attendance today once for the examination scheduled for today faxed in the amt of $1000.00.

Date	Activity	
	All ,tl sent for filing	
Aug 24, 2006	**Received**	
	Gen-Garnishment	Amount: $115.00
	Payment by Solicitor Cheque	Receipt #: 1115644
	Received from: MORRISON	
Aug 24, 2006	**Received**	
	Gen-Garnishment	Amount: $115.00
	Payment by Solicitor Cheque	Receipt #: 1115644
	Received from: MORRISON	
Aug 24, 2006		
Aug 24, 2006		
Oct 10, 2006	**Received**	
	Gen-Notice of Motion	Amount: $127.00
	Payment by Solicitor Cheque	Receipt #: 1128716
	Received from: MORRISON AND PAYNE	
Oct 13, 2006	**Event**	
	Motion - Other (see memo)	
	10:00am Est. Dur.: 1.00 Hour(s)	
	The Honourable Madam Justice Klowak	
	Date Scheduled: Jul 14, 2006	
	Result: Adjourned to a New Date	Result Date: Oct 13, 2006
	Fees Paid: Yes	

motion for contempt BB Richard Payne 224-9968 sol for plff.76B & MREC. BY PLA. OCT.10.06. ADJD. to Dec. 29/06. Text...
ENDORSEMENT
Motion adjourned to Dec. 29/06 at 10AM to give Mr. Carchidi the opportunity to purge his contempt by complying with the consent he has signed to-day. I have advised him that, should be to purge his contempt, the contempt motion will in all likelihood be dismissed at that time. This order does not need to be approved by the def. as to form & content.

Dec 29, 2006	**Event**	
	Motion - Other (see memo)	
	10:00am Est. Dur.: 1.00 Hour(s)	
	The Honourable Mr. Justice Brown	
	Date Scheduled: Jul 14, 2006	
	Result: Adjourned to a New Date	Result Date: Dec 29, 2006
	Fees Paid: Yes	

motion for contempt BB Richard Payne 224-9968 sol for plff.76B & MREC. BY PLA. OCT.10.06 adj AS per endorsment. See Text.
R. Payne for plaintiff.
Notwithstanding the consent adjournment to this date, the defendant has not appeard. Plaintiff's counsel advises that the defendant has not complied with the terms set out in the consent he signed on October 13, 2006. In the absence of evidence to that effect, I am not prepared to make a finding of contempt, especially since the (...) of making such a finding likely would be the imposition of a jail term given the defendant's on going breach of court orders.
I am therefore adjourning this matter until February 22, 2007, a date confirmed by the Scheduling Unit, in order to permit the plaintiff to file evidence regarding the defendant's conduct in respect to the October 13 consent arrangement. Plaintiff is to serve such evidence, and a notice

Date	*Activity*
	of return of motion, personally on the defendant. I fix the plaintiff's costs for today's attendance at $750, to be paid by the defendant to the plaintiff within 30 days of this order. Material placed on the Judges' shelf for Feb. 22/07.
Feb 19, 2007	**Received** Gen-Notice of Motion — Amount: $127.00 Payment by Solicitor Cheque — Receipt #: 1169692 Received from: MORRISON
Feb 22, 2007	**Event** Motion - Other (see memo) 10:00am Est. Dur.: 1.00 Hour(s) The Honourable Mr. Justice Pitt Date Scheduled: Jul 14, 2006 Result: Granted — Result Date: Feb 22, 2007 Fees Paid: Yes Moving Party: Riana Contracting Limited motion for contempt BB Richard Payne 224-9968 sol for plff.76B & MC. BY PLA. OCT.10.06 M/R & 76B + THE M/R FROM APR 07/06 FILED 19 FEB 07. Mat to file. See Text... February 22, 2007 Motion Endorsement "Warrant for arrest granted as this is the 3rd time that the def has filed to comply with court order. Costs of the motion forced at $2134."
May 7, 2007	**Document Filed** Requisition (See Memo) Filed By: Riana Contracting Limited WARRANT FOR ARREST (CONTEMPT)

Court file no. 04-CV-274284SR

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

RIANA CONTRACTING LIMITED

PLAINTIFF

- and -

DOMENIC CARCHIDI

DEFENDANT

MINUTES OF SETTLEMENT

The parties hereto hereby agree to resolve this matter as follows:

1) The Defendant shall make payment to the Plaintiff in the amount of $23,269.04 as full and final settlement of all amounts owing for principal, interest and costs.

Payment of the above amount will be made by way of a payment in the amount of $10,000.00 to be made on or before December 5, 2007. and a further payment of $13,269.04 to be made on or before January 5, 2008.

As long as the Defendant complies with the payment provisions set out above the Plaintiff waives compliance with outstanding undertakings and orders for production.

If payment is made as agreed then Plaintiff will provide Defendant with a Full and Final Release. and any outstanding

(5) If Defendant does not make payment in accordance with this agreement then the Plaintiff is at liberty to resume all execution proceedings, demands for compliance with undertakings and productions and further the Defendant will agree to a further costs award of $5,000.00 in favour of the Plaintiff.

Dated at Toronto this
5th day of November, 2007.

RIANA CONTRACTING LIMITED
per: a person with authority
to bind the corporation

DOMENIC CARCHIDI

Court file no. 04-CV-274284SR

ONTARIO
SUPERIOR COURT OF JUSTICE

The Honourable JUSTICE PITT) Thursday, the 22nd day of
) February, 2007

BETWEEN:

RIANA CONTRACTING LIMITED

PLAINTIFF

and

DOMENIC CARCHIDI

DEFENDANT

WARRANT FOR ARREST (CONTEMPT)

TO ALL POLICE OFFICERS in Ontario
AND TO the officers of all correctional institutions in Ontario

WHEREAS it appears that Domenic Carchidi of 475 Rustic Road Toronto, Ontario, M6L 1X3 may be in contempt of this court,

AND WHEREAS I am of the opinion that attendance of Domenic Carchidi at the hearing of the motion for a contempt order is necessary in the interest of justice and it appears that he is not likely to attend voluntarily,

YOU ARE ORDERED TO ARREST and bring Domenic Carchidi before the court for the hearing of the motion for a contempt order, ~~and if the court is not then sitting or if he cannot be brought forthwith before the court, you are ordered to deliver him to a provincial correctional institution or other secure facility, to be admitted and detained there until he can be brought before the court.~~ KP.

Pitt. J

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Court file no. 04-CV-274284SR

ONTARIO
SUPERIOR COURT OF JUSTICE

The Honourable Mr. Justice Pitt) Monday, the 5th day of
) November, 2007

BETWEEN:

RIANA CONTRACTING LIMITED

PLAINTIFF

- and -

DOMENIC CARCHIDI

DEFENDANT

ORDER

THIS MOTION made by the Plaintiff for the following Order was heard this day at the Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

ON READING the Minutes of Settlement filed, and on hearing the submissions of counsel,

1. **THIS COURT ORDERS** that the Defendant shall make payment to the Plaintiff in the amount of $23,269.04 as full and final settlement of all amounts owing for principal, interest and costs.

2. **THIS COURT ORDERS** that payment of the above amount will be made by way of a payment in the amount of $10,000.00 to be made on or before December 5, 2007 and a further payment of $13,269.04 to be made on or before January 5, 2008.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and $300.00 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff claim and $100.00 for costs and have the costs assessed by the court.

Date: AUG. 18, 2004

Issued by: L - AVERSA

Address of court office:
393 University Avenue, 10th Floor
Toronto, Ontario M2N 5W9

TO:
Domenic Carchidi
475 Rustic Road
Toronto, Ontario
M6L 1X3

THIS ACTION IS BROUGHT AGAINST YOU UNDER THE SIMPLIFIED PROCEDURE PROVIDED IN RULE 76 OF THE RULES OF CIVIL PROCEDURE.

CLAIM

1. The Plaintiff's claim is against the Defendant:

   (a) for the sum of $19,500.00;

   (b) interest thereon at the prime rate as set by the Bank of Canada pursuant to the provisions of the *Courts of Justice Act*, 1984;

   (c) its costs of this action;

   (d) Goods and Service Tax applicable to any and all amounts awarded; and

   (e) such further and other relief as to this Honourable Court does seem just.

2. The Plaintiff is a company incorporated pursuant to the laws of the Province of Ontario, having its head office at the City of Toronto, in the Province of Ontario.

3. The Defendant is an individual residing in the City of Toronto, in the Province of Ontario.

4. The Defendant approached the Plaintiff and requested that the Plaintiff loan him the sum of $10,000.00. On January 26, 2004 the Plaintiff provided the Defendant with cheque no. 4932 in the amount of $10,000.00.

5. The Plaintiff and the Defendant executed a Promissory Note in writing dated January 27, 2004 indicating that the sum of $10,000.00 would be paid on or before March 27, 2004.

6. The Defendant approached the Plaintiff and requested another loan in the amount of $5,000.00. On January 30, 2004, the Plaintiff provided the Defendant with cheque no. 4933 in the amount of $5,000.00

7. The Plaintiff and the Defendant executed a Promissory Note in writing indicating that the sum of $5,000.00 would be paid on or before April 2, 2004

8. The Defendant approached the Plaintiff and requested another loan in the amount of $2,500.00. On February 18, 2004, the Plaintiff provided the Defendant with cheque no. 4984 in the amount of $2,500.00.

9. The Plaintiff and the Defendant executed a Promissory Note in writing indicating that the sum of $2,500.00 would be paid on or before March 18, 2004

10. The Defendant approached the Plaintiff and requested another loan in the amount of $2,000.00. On March 2, 2004, the Plaintiff provided the Defendant with cheque no. 5026 in the amount of $2,000.00.

11. The Plaintiff states that it has demanded payment of its accounts in the amount of $19,500.00 from the Defendant but the Defendant has either refused or neglected to pay that amount.

The Plaintiff proposes that this action be tried at Toronto.

Date: August ~~17~~ 18, 2004

MORRISON AND PAYNE
Barristers and Solicitors
45 Sheppard Avenue East
Suite 221
Toronto, Ontario
M2N 5W9

Richard J. Payne
LSUC # 27451R
Telephone: (416) 224-9414
Fax: (416) 224-9313
Solicitor for the Plaintiff

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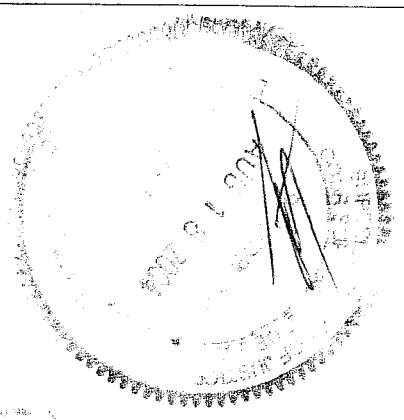
Court File No. 04-CV-274284 SR

BETWEEN:

RIANA CONTRACTING LIMITED
Plaintiff

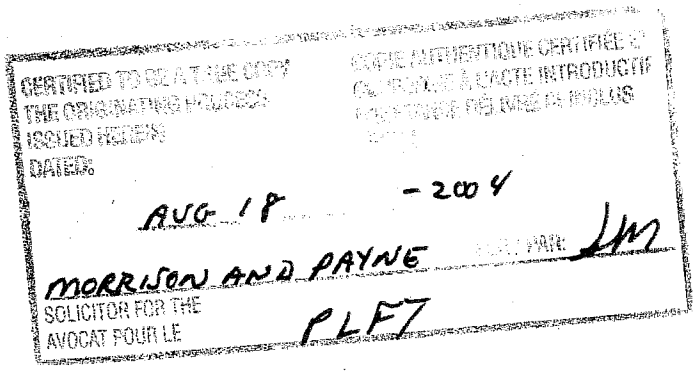
and

DOMENIC CARCHIDI
Defendant



ONTARIO
SUPERIOR COURT OF JUSTICE
Proceedings commenced at Toronto

STATEMENT OF CLAIM



MORRISON AND PAYNE
Barristers and Solicitors
45 Sheppard Avenue East
Suite 221
Toronto, Ontario
M2N 5W9

RICHARD J. PAYNE
LSUC # 27451R
Telephone: (416) 224-9968 ext. 224
Fax: (416) 224-9313
Solicitor for the Plaintiff

FILE COPY

Court file no. 04-CV-274284SR

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

RIANA CONTRACTING LIMITED

PLAINTIFF

and

(Court seal)

DOMENIC CARCHIDI

DEFENDANT

JUDGMENT

ON READING the Statement of Claim in this action and the proof of service of the Statement of Claim on the Defendant, filed and the Defendant having been noted in default,

IT IS ORDERED AND ADJUDGED that the Defendant pay to the Plaintiff the sum of $19,540.06 and the sum of $ 750.00 for costs in this action.

This Judgment bears interest at the rate of 4 % per year from its date on the Judgment amount, and at the rate of 4 % per year from its date on the costs.

DATE: Sept. 21, 2004

Signed: A. K. FEDSON
DEPUTY REGISTRAR, SUPERIOR COURT OF JUSTICE
GREFFIER ADJOINT, COUR SUPÉRIEURE DE JUSTICE

393 University Avenue, 10th Floor
Toronto, Ontario M5G 1E6

SUPERIOR COURT OF JUSTICE
COUR SUPÉRIEURE DE JUSTICE
ENTERED / ENTRÉ
SEP 2 4 2004
PER / PAR:
LOCAL REGISTRAR / GREFFIER LOCAL

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BETWEEN:

RIANA CONTRACTING LIMITED
Plaintiff

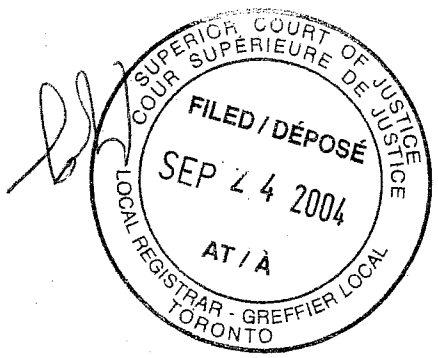
and

DOMENIC CARCHIDI
Defendant

Court File No. 04-CV-274284SR

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceedings commenced at Toronto

DEFAULT JUDGMENT



MORRISON AND PAYNE
Barristers and Solicitors
45 Sheppard Avenue East
Suite 221
Toronto, Ontario
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RICHARD J. PAYNE
LSUC # 27451R
Telephone: (416) 224-9968 ext. 224
Fax: (416) 224-9313
Solicitor for the Plaintiff

Court file no. 04-CV-274284SR

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

RIANA CONTRACTING LIMITED

PLAINTIFF

and

DOMENIC CARCHIDI

DEFENDANT

REQUISITION FOR DEFAULT JUDGMENT

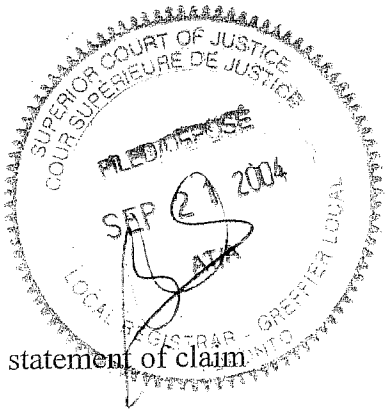
TO THE LOCAL REGISTRAR AT TORONTO

I REQUIRE YOU to note the Defendant in default in this action on the ground that the Defendant failed to file a Statement of Defence within the prescribed time.

I REQUIRE default judgment to be signed against the Defendant,

Domenic Carchidi

Default judgment may properly be signed in this action because the claim is for:



X a debt or liquidated demand in money

___ recovery of possession of land

___ recovery of possession of personal property

___ foreclosure, sale or redemption of a mortgage

X There has been no payment on account of the claim since the statement of claim was issued. - *Complete Parts B & C*

___ The following payments have been made on account of the claim since the statement of claim was issued. - *Complete Parts A & C*

PART B - NO PAYMENT RECEIVED BY PLAINTIFF

(Complete this Part only where no payment has been received on account of the claim)

1. Principal

Principal sum claimed in statement of claim (without interest) **$19,500.00**

2. Prejudgment Interest

(Under section 128 of the Courts of Justice Act, judgment may be obtained for prejudgment interest from the date the cause of action arose, if claimed in the statement of claim)

Date on which statement of claim was issued August 18, 2004

Date from which prejudgment interest is claimed August 18, 2004

The plaintiff is entitle to prejudgment interest on the claim, calculated as follows:

(Calculate simple interest only unless an agreement relied on in the statement of claim specifies otherwise. To calculate the interest amount, count the number of days and multiply that number by the annual rate of interest, multiply the result by the principal sum owing and divide by 365.)

Principal Sum Owing	Start Date	End Date (Date of Judgment)	Number of Days	Rate	Interest Amount
$19,500.00	Aug. 18, 2004	Sept. 17, 2004	30 days	2.5%	$40.06

TOTAL B	$	**40.06**
Principal Sum Owing (Total A above)	$	19,500.00
Total Interest Amount (Total B above)	$	40.06
SIGN JUDGMENT FOR	$	**19,540.06**

Court file no. 04-CV-274284SR

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

RIANA CONTRACTING LIMITED

Creditor

-and-

DOMENIC CARCHIDI

Debtor

-and-

3877337 CANADA INC., A SUBSIDIARY OF CIBC MORTAGES INC.,
carrying on business as HLC Homes Loans Canada

Garnishee

NOTICE OF GARNISHMENT

TO: 3877337 Canada Inc., a Subsidiary of CIBC Mortgages Inc.,
carrying on business as HLC Home Loans Canada
33 Yonge Street, Suite 700
Toronto, Ontario M5E 1G4

A LEGAL PROCEEDING in this court between the Creditor and the Debtor has resulted in an order that the Debtor pay a sum of money to the Creditor. The Creditor claims that you owe a debt to the Debtor. A debt to the debtor includes both a debt payable to the debtor and a debt payable to the debtor and one or more co-owners. The Creditor has had this notice of garnishment directed to you as garnishee in order to seize any debt that you owe or will owe to the Debtor. You must pay one-half of the indebtedness or the greater or lesser amount specified in an order made under subrule 60.08(16).

YOU ARE REQUIRED TO PAY to the Sheriff of the City of Toronto

(a) within 10 days after this notice is served on you, all debts now payable by you to the Debtor; and

(b) within 10 days after they become payable, all debts that become payable by you to this Debtor within 6 years after this notice is served on you,

subject to the exemptions provided by section 7 of the *Wages Act*. The total amount of all your payments to the sheriff is not to exceed $21,317.75, less $10.00 for your costs of making each payment.

EACH PAYMENT MUST BE SENT with a copy of the attached garnishee's payment notice to the sheriff at the address shown below.

IF YOU DO NOT PAY THE TOTAL AMOUNT OF $21,317.75 LESS $10 FOR YOUR COSTS OF MAKING EACH PAYMENT WITHIN 10 DAYS after this notice is served on you, because the debt is owed to the debtor and to one or more co-owners or for any other reason, you must within that time

serve on the Creditor and the Debtor and file with the court a garnishee's statement in Form 60I attached to this notice.

IF YOU FAIL TO OBEY THIS NOTICE, THE COURT MAY MAKE AND ENFORCE AN ORDER AGAINST YOU for payment of the amount set out above and the costs of the Creditors.

IF YOU MAKE PAYMENT TO ANYONE OTHER THAN THE SHERIFF, YOU MAY BE LIABLE TO PAY AGAIN.

TO THE CREDITOR, THE DEBTOR AND THE GARNISHEE

Any party may make a motion to the court to determine any matter in relation to this notice of garnishment.

Date: September 19th, 2005 Issued by: _____

Address of Court Office:
393 University Avenue, 10th Floor
Toronto, Ontario M5G 1E6

Creditor's Address	Debtor's Address	Sheriff's Address
c/o 45 Sheppard Ave. East	475 Rustic Road	393 University Avenue
Suite 221	Toronto, Ontario	10th Floor
Toronto, Ontario	M6L 1X3	Toronto, Ontario
M2N 5W9		M5G 1E6
Tel: (416) 224-9968		
Fax: (416) 224-9313		

GARNISHEE'S PAYMENT NOTICE

Make payment by cheque or money order payable to the Sheriff of the City of Toronto and send it, along with a copy of this payment notice to the Sheriff at:

393 University Avenue, 10th Floor, Toronto, Ontario, M5G 1E6

Court – Superior Court of Justice Court File No. 04-CV-274284SR
Office at 393 University Avenue , 10th Floor, Toronto, Ontario, M5G 1E6

Creditor: Riana Contracting Limited

Debtor: Domenic Carchidi

Garnishee: 3877337 Canada Inc., a subsidiary of CIBC Mortgages Inc., carrying on business as HLC Home Loans Canada

TO BE COMPLETED BY GARNISHEE FOR EACH PAYMENT

Date of Payment .....
Amount Enclosed $_____

Court File No. 04-CV-274284SR

BETWEEN:

RIANA CONTRACTING LIMITED	and	DOMENIC CARCHIDI
Plaintiff		Defendant

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceedings commenced at Toronto

NOTICE OF GARNISHMENT

MORRISON AND PAYNE
Barristers and Solicitors
45 Sheppard Avenue East
Suite 221
Toronto, Ontario
M2N 5W9

RICHARD J. PAYNE
LSUC # 27451R
Telephone: (416) 224-9968 ext. 224
Fax: (416) 224-9313
Solicitor for the Plaintiff