

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,  
R.S.O. 1990, c.C.30, AS AMENDED

AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.  
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE  
*CONSTRUCTION LIEN ACT*, R.S.O. 1990, c.C.30, AS AMENDED

**REPLY MOTION RECORD OF SEREEN PAINTING LTD.**

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**I N D E X**

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Court File No. CV-15-10843-0CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,  
R.S.O. 1990, c.C.30, AS AMENDED

AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.  
FOR THE APOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE  
*CONSTRUCTION LIEN ACT*, R.S.O. 1990, c.C.30, AS AMENDED

**REPLY AFFIDAVIT OF HAYSAM FATTAH  
Sworn: June 16, 2016**

I, Haysam Fattah, of the City of Hamilton, in the Province of Ontario, MAKE  
OATH AND SAY:

1. I make this affidavit in reply to the Affidavit of Lloyd Holloway sworn June 6, 2016 and the Tenth Report of the Trustee dated June 7, 2016 .
2. My company is a small business that is compromised of myself and four (4) other employees. As a result, I too provide labour (such as painting, staining, taping and plastering) to different projects we are hired to do, on top of my ownership duties of putting in the orders and delivery of materials to the job sites.
3. The \$345,952.00 owing to Sereen, plus interest and legal costs, has created significant financial pressures to my small business.
4. Sereen Painting left the job due to non-payment of invoices rendered and because it had heard that 144 Park was insolvent.

5. Sereen Painting only invoiced for those parts of the project that it actually completed.

6. I want it to be clear that Sereen Painting was willing and able to return to the project to finish the job it was contracted to do, but it was never contacted by the Trustee to return to finish or fix alleged deficiencies. The Trustee instead opted to hire a third party company to do what Sereen Painting could have and would have done.

7. Sereen Painting has only invoiced for the work it did. Therefore the Affidavit of Mr. Holloway is irrelevant because Sereen has not made a claim for areas not painted or only partially finished.

8. I note that Mr. Holloway did not include any photographs to substantiate his allegations that some areas were not painted at all or in full. Nevertheless, I will respond to the allegations he makes in paragraph 6 as best I can. It is unfortunate that the Trustee did not raise the issue of areas not painted much earlier, when I could have obtained evidence to rebut those allegations.

9. In regards to paragraph 6, I respond as follows:

(c) (i) Sereen Painting did not complete the painting on the doors as they were covered in duct tape that had not been removed by the owner as requested by Sereen;

(vi) some door painting was completed – cannot remember if this particular door was one of them;

(vii) finished painting the walls – cannot remember if the ceiling was on the drawings showing items to be painted;

- (viii) ceilings were not part of the drawings showing items to be painted;
- (xi) only the priming coat was finished;
- (xiv) not on the drawings showing items to be painted;
- (xv) finished the parking area – however, there were issues within the walls due to other trades and the walls were therefore opened up again to make the repairs;
- (xvii) this was finished;
- (xviii) this was finished;
- (xix) only the priming coat was finished;
- (xx) this was finished;
- (d) the common area (corridor) on the 19<sup>th</sup> Floor was completed;
- (f) there was 1 or 2 floors where a small piece of wallpaper was missing on a bulkhead near the elevator, but not on all floors; and
- (g) I deny the allegation that Sereen Painting left glue residue on the seams of the wallpaper.

10. At no time during the project, did 144 Park or anyone on its behalf challenge the amounts being invoiced by Sereen Painting. 144 Park/Mady was simply slow to pay or ran out of funds completely.

11. I note that Mr. Holloway's affidavit does not provide or attach a cost analysis to prove whether any expenses were incurred to complete the painting work left undone by Sereen Painting.

### Response to Trustee's Report

12. In regards to the comments by the Trustee about which invoices have been paid, I attach a chart as **Exhibit A** showing the invoices sent by Sereen Painting, payments received and the balance owing thereon.

13. In order to clarify what Sereen Painting was hired to do, I can advise the court that we started work before the written Contract was signed. Sereen was hired to correct and complete the work of the original painter. Invoices 70, 74 and 74-1 were for work under the original Contract.

14. Furthermore, extra work was added after the Contract was signed. Invoices 69, 76, 77, 79, 80, 81, 82, 91 and 92 all were with respect to extra work done pursuant to verbal requests made by Karla, the Property Manager for the owner or other owner representatives. Attached hereto as **Exhibit B** are true copies of some emails I was able to recover from various representatives of the owner referencing the extra jobs. This information was provided to Sam Rappos by letter dated December 4, 2015. Much of the extra work was relating to pre-delivery inspections (**PDI's**). In other words, when the owner sold units, the new owners would inspect the unit and note deficiencies. These deficiencies needed to be rectified under the Tarion regime. Often Sereen Painting painted a unit and there were scuff marks or other damages to the work Sereen Painting had done because other trades were in the unit or the unit owner or

movers created blemishes when the owner moved in. So Sereen Painting had to return and do more painting.

15. Similarly, invoices 72 and 73 were PDI work verbally requested by the owners site personnel.

16. Sereen Painting acknowledges receiving payment in full for invoices 69, 70, 72, 73 and 74. Attached hereto as **Exhibit C** is a chart showing invoices sent, payments received set out by cheque number and balances owing.

17. The PDI work was on the basis of \$45 per hour. The work completed under the Contract was a fixed fee per floor/area.

18. The total Contract price was \$540,700.00 put HST or \$610,991.00. Sereen Painting only invoiced a total of \$515,280.00 under the base Contract.

19. The only back charge issued by the owner that Sereen Painting accepts is BC6034 in amount of \$528.61. This amount was deducted from the chart attached hereto as Exhibit A.

20. The back charge in the amount of \$3,864.60 is disputed. The back charge is not justified. In fact, it wasn't even issued until well after Sereen Painting left the site.

21. While Sereen Painting was on the site, the owner did not dispute any of the invoices we sent or issue any other back charges.

22. The balance owing to Sereen is \$345,159.01. Sereen Painting is simply asking for payment of its 10% holdback in the amount of \$74,713.06. Sereen Painting will suffer a huge loss on this project.

**SWORN BEFORE ME** at the City of Hamilton, in the Province of Ontario on June 16, 2016



Commissioner for Taking Affidavits  
(or as may be)

**Charlotte Kathleen Walton, a Commissioner, etc.,**  
Province of Ontario, for SimpsonWigle Law LLP.  
Expires May 26, 2019.



**HAYSAM FATTAH**



This is Exhibit A referred to in the Reply Affidavit of  
Haysam Fattah sworn June 16, 2016.



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*Commissioner for Taking Affidavits (or as may be)*

**Charlotte Kathleen Walton, a Commissioner, etc.,  
Province of Ontario, for SimpsonWigle Law LLP.  
Expires May 26, 2019.**

144 Park Invoice Calculations

Contract or Extra / PDI	Invoice #	Invoice Amount	Less 10%	Subtotal	Taxes	Invoice Total	10% Holdback	Payments	Balance Owing
PDI	69	17,212.50		17,212.50	2,237.60	19,450.10	1,945.01	19,450.10	-
Contract	70	171,000.00		171,000.00	22,230.00	193,230.00	19,323.00	193,230.00	-
PDI	72	28,660.00		28,660.00	3,725.80	32,385.80	3,238.58	32,385.80	-
PDI	73	27,860.00		27,860.00	3,621.80	31,481.80	3,148.18	31,481.80	-
Contract	74	150,000.00		150,000.00	19,500.00	169,500.00	16,950.00	169,500.00	-
Contract	74-1	150,000.00	15,000.00	135,000.00	17,550.00	152,550.00	15,255.00	-	152,550.00
PDI	76	30,320.00		30,320.00	3,941.60	34,261.60	3,426.16	-	34,261.60
PDI	77	29,290.00		29,290.00	3,807.70	33,097.70	3,309.77	-	33,097.70
PDI	79	14,085.00		14,085.00	1,831.05	15,916.05	1,591.61	-	15,916.05
PDI	80	13,630.00		13,630.00	1,771.90	15,401.90	1,540.19	-	15,401.90
PDI	81	10,300.00		10,300.00	1,339.00	11,639.00	1,163.90	-	11,639.00
PDI	82	11,980.00		11,980.00	1,557.40	13,537.40	1,353.74	-	13,537.40
PDI	91	9,560.00		9,560.00	1,242.80	10,802.80	1,080.28	-	10,802.80
PDI	92	12,280.00		12,280.00	1,596.40	13,876.40	1,387.64	-	13,876.40
BC6034	551								(528.61)
	Totals:					747,130.55	74,713.06	446,047.70	300,554.24

Claim for Lien \$ 345,952.00

This is Exhibit B referred to in the Reply Affidavit of  
Haysam Fattah sworn June 16, 2016.



---

*Commissioner for Taking Affidavits (or as may be)*

**Charlotte Kathleen Walton, a Commissioner, etc.,  
Province of Ontario, for SimpsonWigle Law LLP.  
Expires May 26, 2019.**

**Charlotte Walton**

---

**From:** Sam [sam-68@hotmail.ca]  
**Sent:** Thursday, December 03, 2015 11:00 AM  
**To:** Derek A. Schmuck  
**Cc:** Charlotte Walton  
**Subject:** Fwd: 144 Park - Availability of Suites to paint

Sent from my iPhone

Begin forwarded message:

**From:** Carlos Cerrato <[Carlos.Cerrato@lclbuilds.com](mailto:Carlos.Cerrato@lclbuilds.com)>  
**Date:** April 16, 2014 at 11:04:03 AM EDT  
**To:** Sam <[sam-68@hotmail.ca](mailto:sam-68@hotmail.ca)>  
**Cc:** Bashar Khagif <[bkhalifeh@mady.com](mailto:bkhalifeh@mady.com)>, Jason Brisson <[Jason.Brisson@lclbuilds.com](mailto:Jason.Brisson@lclbuilds.com)>, Arthur Reinink <[Arthur.Reinink@lclbuilds.com](mailto:Arthur.Reinink@lclbuilds.com)>  
**Subject:** 144 Park - Availability of Suites to paint

Sam,

I know you are working on L10 and know what dates are for PDI for that level but I need your help in finishing L9 suites so I can free that crew to do PDI deficiencies. I also have areas on L11-13 that are available to paint so you can be ahead. Please see the following information:

L11 ready for wood paint and ceiling paint  
L12 ceiling ready for prime and walls  
L13 ceilings ready for prime and walls

Additional suites for PDI in this order  
508 April 24  
910 April 24  
905 April 24  
907 April 30  
909 April 30  
901 May 1  
908 May 1

Carlos Cerrato, BSPM, MBA  
Senior Project Manager

LCL Builds Corporation  
98 Scarsdale Road, ON  
M: 416.859.4397  
[Carlos.cerrato@lclbuilds.com](mailto:Carlos.cerrato@lclbuilds.com)

12/3/2015

Charlotte Walton

---

**From:** Sam [sam-68@hotmail.ca]  
**Sent:** Thursday, December 03, 2015 11:02 AM  
**To:** Derek A. Schmuck  
**Cc:** Charlotte Walton  
**Subject:** Fwd: 144 Park - additional durex "FN's" paint

Sent from my iPhone

Begin forwarded message:

**From:** Bashar Khalifeh <bkhalifeh@mady.com>  
**Date:** April 22, 2014 at 1:27:54 PM EDT  
**To:** "Haysam Fattah (sam-68@hotmail.ca)" <sam-68@hotmail.ca>  
**Cc:** "Carlos Cerrato' (Carlos.Cerrato@lclbuilds.com)" <Carlos.Cerrato@lclbuilds.com>, "Paula.Rodriguez@lclbuilds.com" <Paula.Rodriguez@lclbuilds.com>, Ahmad Khalifeh <akhhalifeh@mady.com>, "Jason Brisson (Jason.Brisson@lclbuilds.com)" <Jason.Brisson@lclbuilds.com>, Karla Roelofsz <kroelofsz@mady.com>  
**Subject:** 144 Park - additional durex "FN's" paint

Sam,

As discussed, please put together a take-off for (10) pails of each paint type and let me know the cost. I can look to paying for that on company card, otherwise, you will need to bill Mady.

Also, take into account that approximately 30% of the order is to be dedicated for customer care handymen (i.e. 3-4 pails of each), the rest is yours to complete touch-ups.

Regards,

**Bashar Khalifeh**  
Project Coordinator  
MADY Contract Division Ltd.  
cell: 647.459.4000  
fax: 905.944.0474

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[www.MADY.com](http://www.MADY.com)



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12/3/2015

**Derek A. Schmuck**

---

**From:** Sam <sam-68@hotmail.ca>  
**Sent:** December-03-15 11:05 AM  
**To:** Derek A. Schmuck  
**Subject:** Fwd: 144 Park - Unites has Crown Molding

Sent from my iPhone

Begin forwarded message:

**From:** Al-Alwan Abdel Razak <[arazak@mady.com](mailto:arazak@mady.com)>  
**Date:** April 24, 2014 at 11:08:11 AM EDT  
**To:** Sam <[sam-68@hotmail.ca](mailto:sam-68@hotmail.ca)>  
**Cc:** Carlos cerrato <[carlos.cerrato@lclbuilds.com](mailto:carlos.cerrato@lclbuilds.com)>, Bashar Khalifeh <[bkhalifeh@mady.com](mailto:bkhalifeh@mady.com)>  
**Subject:** 144 Park - Unites has Crown Molding

Sam

This is the unites has a crown molding:

# 403, 409, 505, 605, 708, 906, 1008, 1010, 1101, 1104/05, 1302, 1603, 1701, 1804, 1901.

Notes:

there are no colour charts for some unites yet.

Regards

**Al-Alwan Abdel Razak**  
Afternoon Supervisor  
MADY Contract Division Ltd.  
cell: 416.602.9770  
fax: 905.944.0474

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[www.MADY.com](http://www.MADY.com)



This email and any files transmitted with it are confidential and intended solely for the use of the individual or

**Charlotte Walton**

000013

**From:** Derek A. Schmuck  
**Sent:** Thursday, December 03, 2015 4:34 PM  
**To:** Charlotte Walton  
**Subject:** FW: Pdi suites for tomorrow

**Derek Schmuck**  
Partner



Phone: 905-528-8411 ext 353  
Fax: 905-528-9008

E-mail: [Dereks@simpsonwigle.com](mailto:Dereks@simpsonwigle.com)  
Website: <http://www.simpsonwigle.com/derek-schmuck>

**From:** Sam [mailto:sam-68@hotmail.ca]  
**Sent:** December-03-15 2:49 PM  
**To:** Derek A. Schmuck <SchmuckD@simpsonwigle.com>  
**Subject:** Fwd: Pdi suites for tomorrow

Sent from my iPhone

Begin forwarded message:

**From:** Jason Brisson <[Jason.Brisson@lclbuilds.com](mailto:Jason.Brisson@lclbuilds.com)>  
**Date:** May 7, 2014 at 7:56:34 AM EDT  
**To:** Painter Sam <[sam-68@hotmail.ca](mailto:sam-68@hotmail.ca)>  
**Cc:** Paula Rodriguez <[Paula.Rodriguez@lclbuilds.com](mailto:Paula.Rodriguez@lclbuilds.com)>, Carlos Cerrato <[Carlos.Cerrato@lclbuilds.com](mailto:Carlos.Cerrato@lclbuilds.com)>, Arthur Reinink <[Arthur.Reinink@lclbuilds.com](mailto:Arthur.Reinink@lclbuilds.com)>  
**Subject:** Pdi suites for tomorrow

Sam, here's a list of the suites for tomorrow's pdi's 1009,1010

**Jason Brisson**  
Superintendent  
**LCL BUILDS CORPORATION**  
98 Scarsdale Road  
Toronto, Ontario M3B 2R7

T: [416.492.0500](tel:416.492.0500)  
F: [416.492.4932](tel:416.492.4932)  
C: [1.226.228.7118](tel:1.226.228.7118)

12/4/2015

000014

**Charlotte Walton**

---

**From:** Derek A. Schmuck  
**Sent:** Thursday, December 03, 2015 4:40 PM  
**To:** Charlotte Walton  
**Subject:** FW: 144 Park - back charge log for FN Painting:

**Derek Schmuck**  
Partner



Phone: 905-528-8411 ext 353  
Fax: 905-528-9008

E-mail: [Dereks@simpsonwigle.com](mailto:Dereks@simpsonwigle.com)  
Website: <http://www.simpsonwigle.com/derek-schmuck>

**From:** Sam [<mailto:sam-68@hotmail.ca>]  
**Sent:** December-03-15 2:50 PM  
**To:** Derek A. Schmuck <[SchmuckD@simpsonwigle.com](mailto:SchmuckD@simpsonwigle.com)>  
**Subject:** Fwd: 144 Park - back charge log for FN Painting:

Sent from my iPhone

Begin forwarded message:

**From:** Carlos Cerrato <[Carlos.Cerrato@lclbuilds.com](mailto:Carlos.Cerrato@lclbuilds.com)>  
**Date:** May 12, 2014 at 11:37:20 AM EDT  
**To:** Sam <[sam-68@hotmail.ca](mailto:sam-68@hotmail.ca)>  
**Subject:** 144 Park - back charge log for FN Painting:

144 Park - back charge log for FN Painting:

Sam ( Serren Painting)  
Suites: 704, 707, 708, 709  
April 8, 2014 (Two men) 7:00 am - 4:00pm total 9 hours each total 18 hours  
April 9, 2014 (Two men) 7:00 am - 4:00pm total 9 hours each total 18 hours  
April 11, 2014 (Two men) 7:00 am - 4:00pm total 9 hours each total 18 hours  
Suites 905, 910, 907, 909, 508  
April 21, 2014 (three men) 7:00 am - 3:00

NKP  
Suites: 609, 807, 903, 904  
April 10, 2014 (3 men) 7:00 am - 3:00 pm, 8 hours, total 16 hours (609, 4 hours; 807, 4 hours)

12/4/2015



000015

April 11, 2014 (3 men) 7:00 am - 3:00 pm, 8 hours, total16 hours. (807, 4 hours)  
April 14, 2014 (3 men) 7:00am - , (903, 904)  
April 15, 2014 (3 men) 7:00- 3:00 suite 802  
April 16, 2014 (3 men) 7:00- 3:00  
April 17, 2014 (3 men) 7:00 - 3:00

Carlos Cerrato, BSPM, MBA  
Senior Project Manager

LCL Builds Corporation  
Mobile: 416.859.4397  
[Carlos.cerrato@lclbuilds.com](mailto:Carlos.cerrato@lclbuilds.com)

**Charlotte Walton**

---

**From:** Derek A. Schmuck  
**Sent:** Thursday, December 03, 2015 4:40 PM  
**To:** Charlotte Walton  
**Subject:** FW: 144 Park - FN Painting Back Charge log  
**Attachments:** FN Painting Back Charge Log.pdf; ATT00001.htm

**Derek Schmuck**  
Partner



**Phone:** 905-528-8411 ext 353  
**Fax:** 905-528-9008

**E-mail:** [Dereks@simpsonwigle.com](mailto:Dereks@simpsonwigle.com)  
**Website:** <http://www.simpsonwigle.com/derek-schmuck>

**From:** Sam [<mailto:sam-68@hotmail.ca>]  
**Sent:** December-03-15 2:51 PM  
**To:** Derek A. Schmuck <[SchmuckD@simpsonwigle.com](mailto:SchmuckD@simpsonwigle.com)>  
**Subject:** Fwd: 144 Park - FN Painting Back Charge log

Sent from my iPhone

Begin forwarded message:

**From:** Carlos Cerrato <[Carlos.Cerrato@lclbuilds.com](mailto:Carlos.Cerrato@lclbuilds.com)>  
**Date:** May 27, 2014 at 9:09:04 AM EDT  
**To:** "'[sam-68@hotmail.ca](mailto:sam-68@hotmail.ca)'" <[sam-68@hotmail.ca](mailto:sam-68@hotmail.ca)>  
**Cc:** "'Bashar Khaifeh'" <[bkhalifeh@mady.com](mailto:bkhalifeh@mady.com)>, Arthur Reinink <[Arthur.Reinink@lclbuilds.com](mailto:Arthur.Reinink@lclbuilds.com)>  
**Subject:** 144 Park - FN Painting Back Charge log

Sam,

Attached is a copy of the back charge log for all the task and suites you and NKP have been working on in the project, please review and add any information I'm missing.

Regards,

**Carlos Cerrato, BSPM, MBA**  
Senior Project Manager

**LCL BUILDS CORPORATION**  
98 Scarsdale Road  
Toronto, Ontario M3B 2R7  
T: 416.492.0500  
C: 416.859.4397

12/4/2015

Project  
Job #



FN Painting Back Charge Log

Date	Subcontractor	Suites	Type	Description	Man Hours
April 8, 2014	Screen Painting	704, 707, 708, 709	PDI Prep	Final Paint for PDI	18
April 9, 2014	Screen Painting	704, 707, 708, 709	PDI Prep	Final Paint for PDI	18
April 10, 2014	NKP Painting	808, 807, 903, 904	PDI Prep	Final Paint for PDI	24
April 11, 2014	NKP Painting	808, 807, 903, 904	PDI Prep	Final Paint for PDI	24
April 11, 2014	Screen Painting	905, 910, 907, 909, 508	PDI Prep	Final Paint for PDI	18
April 14, 2014	NKP Painting	903, 904	PDI Prep	Final Paint for PDI	24
April 15, 2014	NKP Painting	802	PDI Prep	Final Paint for PDI	24
April 16, 2014	NKP Painting				24
April 17, 2014	NKP Painting				24
May 1, 2014	NKP Painting	609	PDI Deficiencies	Compiling items on PDI deficiency list	18
May 6, 2014	NKP Painting	802	PDI Deficiencies	Sand Soot prime patches & repaint washroom (BC to Netco)	3
May 6, 2014	NKP Painting	605	PDI Deficiencies	Touch up paint throughout. Scrape peeling paint off all ceilings, scrape bulges & plaster, sand scrape all door debris and rough paint finish, re-paint all doors and frames	21
May 7, 2014	NKP Painting	605	PDI Deficiencies	Assit TIC in sanding, additional taping was done by TIC due to 80% of suite had drywall imperfections and poor taping workmanship. Spot prime all patches on all ceilings and walls, applied final paint throughout	16
May 8, 2014	NKP Painting	605	PDI Deficiencies	Paint all bulkhead with flat white, cut & roll entire master bedroom, un cover all furniture, clean and vacuum entire suite	8
May 9, 2014	NKP Painting	605	PDI Deficiencies	Same as above	22
May 9, 2014	NKP Painting	802	PDI Deficiencies	Re-paint all Ceilings	2
May 12, 2014	Screen Painting	608	PDI Prep	Final Paint for PDI	9
May 12, 2014	Screen Painting	508	PDI Prep	Final Paint for PDI	24
May 13, 2014	Screen Painting	609	PDI Deficiencies	All touchups on PDI deficiency list where completed, came back at the request of Customer Services to re-paint ceilings and touch walls	19.5
May 13, 2014	Screen Painting	608	PDI Prep	Re-paint suite due to additional TIC taping done for poor workmanship (BC to TIC)	24
May 14, 2014	Screen Painting	608	PDI Prep	Continued	10.5
May 14, 2014	Screen Painting	609	PDI Deficiencies	Continued	7.5

T: 416.492.0500  
C: 647.239.7315

----- Forwarded message -----

From: "Karla Roelofsz" <kroelofsz@mady.com>

To: "Bashar Khalifeh" <bkhalifeh@mady.com>, "Ahmad Khalifeh" <akhalifeh@mady.com>, "Arthur Reinink" <Arthur.Reinink@lclbuilds.com>, "Carlos Cerrato" <Carlos.Cerrato@lclbuilds.com>

Cc: "yanira@lcmpropertyservices.com" <yanira@lcmpropertyservices.com>, "Leigh Merswolke" <Leigh@lcmpropertyservices.com>, "Marko A. Juricic" <markoj@mady.com>, "peter blackwell (peter@peterblackwell.com)" <peter@peterblackwell.com>, "Kent Fortune (kent.fortune@gmail.com)" <kent.fortune@gmail.com>, "Jim Fortune" <jim.fortune48@gmail.com>

Subject: 144 Park - Suites 1702 & 1703

Date: Wed, Jul 9, 2014 1:03 PM

Hello,

Please be advised the PDI's for Suite 1702 & 1703 will need to be rescheduled for Thursday July 10<sup>th</sup> to Tuesday July 15<sup>th</sup>.

**These Suites MUST be ready for July 15<sup>th</sup> Occupancy is July 16<sup>th</sup>.**

These suites are missing the following items just to name a few.

- 1703 Kitchen countertop not delivered today as promised by DKS
- Shoe mold
- Final Paint and Drywall Touch ups
- Final plumbing
- Carpet not installed
- Electrical not completed – Breakers are coming

Please confirm these items will be addressed as soon as possible.

### **Karla Roelofsz**

Customer Service Team Leader  
MADY Development Corporation  
tel: 519.578.2104  
fax: 519.578.9981

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[www.MADY.com](http://www.MADY.com)



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**Charlotte Walton**

**From:** Derek A. Schmuck  
**Sent:** Thursday, December 03, 2015 4:43 PM  
**To:** Charlotte Walton  
**Subject:** FW: 144 Park - Next two Week's PDIs

**Derek Schmuck**  
 Partner



**Phone:** 905-528-8411 ext 353  
**Fax:** 905-528-9008

**E-mail:** [Dereks@simpsonwigle.com](mailto:Dereks@simpsonwigle.com)  
**Website:** <http://www.simpsonwigle.com/derek-schmuck>

**From:** Sam [<mailto:sam-68@hotmail.ca>]  
**Sent:** December-03-15 3:02 PM  
**To:** Derek A. Schmuck <[SchmuckD@simpsonwigle.com](mailto:SchmuckD@simpsonwigle.com)>  
**Subject:** Fwd: 144 Park - Next two Week's PDIs

Sent from my iPhone

Begin forwarded message:

**From:** Bashar Khalifeh <[bkhalifeh@mady.com](mailto:bkhalifeh@mady.com)>  
**Date:** July 18, 2014 at 11:49:57 AM EDT  
**To:** 'Shawn Stewart' <[ss Stewart@oconnorelec.com](mailto:ss Stewart@oconnorelec.com)>, "[j-me.alexander@hotmail.com](mailto:j-me.alexander@hotmail.com)" <[j-me.alexander@hotmail.com](mailto:j-me.alexander@hotmail.com)>, "[mathew.sanchedrywall@hotmail.com](mailto:mathew.sanchedrywall@hotmail.com)" <[mathew.sanchedrywall@hotmail.com](mailto:mathew.sanchedrywall@hotmail.com)>, "[NPaulozza@nelcomech.com](mailto:NPaulozza@nelcomech.com)" <[NPaulozza@nelcomech.com](mailto:NPaulozza@nelcomech.com)>, "Haysam Fattah ([sam-68@hotmail.ca](mailto:sam-68@hotmail.ca))" <[sam-68@hotmail.ca](mailto:sam-68@hotmail.ca)>, "[bbray@nelcomech.com](mailto:bbray@nelcomech.com)" <[bbray@nelcomech.com](mailto:bbray@nelcomech.com)>, "[knequest@nelcomech.com](mailto:knequest@nelcomech.com)" <[knequest@nelcomech.com](mailto:knequest@nelcomech.com)>, "Michael Akyaw ([michael@adlersmaintile.com](mailto:michael@adlersmaintile.com))" <[michael@adlersmaintile.com](mailto:michael@adlersmaintile.com)>, "Kristina D ([kristinad@frendel.com](mailto:kristinad@frendel.com))" <[kristinad@frendel.com](mailto:kristinad@frendel.com)>, "[schedulingto@westonflooring.com](mailto:schedulingto@westonflooring.com)" <[schedulingto@westonflooring.com](mailto:schedulingto@westonflooring.com)>, "Gavin Heilbron ([info@mrmrmarble.com](mailto:info@mrmrmarble.com))" <[info@mrmrmarble.com](mailto:info@mrmrmarble.com)>, "[dannytran@dkstone.ca](mailto:dannytran@dkstone.ca)" <[dannytran@dkstone.ca](mailto:dannytran@dkstone.ca)>  
**Cc:** Ahmad Khalifeh <[akhalifeh@mady.com](mailto:akhalifeh@mady.com)>, "'Carlos Cerrato' ([Carlos.Cerrato@lclbuilds.com](mailto:Carlos.Cerrato@lclbuilds.com))" <[Carlos.Cerrato@lclbuilds.com](mailto:Carlos.Cerrato@lclbuilds.com)>, "Arthur Reinink ([Arthur.Reinink@lclbuilds.com](mailto:Arthur.Reinink@lclbuilds.com))" <[Arthur.Reinink@lclbuilds.com](mailto:Arthur.Reinink@lclbuilds.com)>  
**Subject:** 144 Park - Next two Week's PDIs

All,

12/4/2015

Below scheduled PDI's for next (2) week.  
All will be discussed during our Monday's meeting.

Friday July 25/14:

- 1701
- 1605

Wednesday July 30/14:

- TH8
- 1006
- 1107
- 1505
- 1803
- \*606

Regards,

**Bashar Khalifeh**  
Project Coordinator  
MADY Contract Division Ltd.  
cell: 647.459.4000  
fax: 905.944.0474

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[www.MADY.com](http://www.MADY.com)



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This is Exhibit C referred to in the Reply Affidavit of  
Haysam Fattah sworn June 16, 2016.



---

*Commissioner for Taking Affidavits (or as may be)*

Charlotte Kathleen Walton, a Commissioner, etc.,  
Province of Ontario, for SimpsonWigle Law LLP.  
Expires May 26, 2019.



144 Park Invoice/Payment Calculations

Contract or PDI Invoice #	PDI 69	Contract 70	PDI 72	PDI 73	Contract 74	Contract 74-1	PDI 76	PDI 77	PDI 79	PDI 80	PDI 81	PDI 82	PDI 91	PDI 92
Invoice Amount	19,450.10	193,230.00	32,385.80	31,481.80	169,500.00	152,550.00	34,261.60	33,097.70	15,916.05	15,401.90	11,639.00	13,537.40	10,802.80	13,876.40
<b>Payments</b>														
Cheque #														
31568	17,505.09													
31713		100,000.00												
31714		73,907.00												
32812			29,147.22	28,333.62	52,000.23									
33328					35,000.00									
33466					35,000.00									
33576					30,549.77									
33861	1,945.01	19,323.00	3,238.58	3,148.18	16,950.00									
Total Payments	19,450.10	193,230.00	32,385.80	31,481.80	169,500.00									
Outstanding Balance	-	-	-	-	-	152,550.00	34,261.60	33,097.70	15,916.05	15,401.90	11,639.00	13,537.40	10,802.80	13,876.40

IN THE MATTER OF THE CONSTRUCTION LIEN ACT R.S.O. 1990, c.C.30, AS AMENDED  
AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.

Court File No. CV-15-10843-0CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

**REPLY AFFIDAVIT OF HAYSAM FATTAH**  
Sworn: June 16, 2016

**SimpsonWigle LAW LLP**  
200 – 1 Hunter Street East  
Hamilton, ON L8N 3W1

**Derek A. Schmuck (LSUC #24551U)**  
E-mail: [schmuckd@simpsonwigle.com](mailto:schmuckd@simpsonwigle.com)  
Tel: 905-528-8411  
Fax: 905-528-9008

Lawyers for Screen Painting Ltd.

000024

IN THE MATTER OF THE CONSTRUCTION LIEN ACT R.S.O. 1990, c.C.30, AS AMENDED  
AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.

Court File No. CV-15-10843-0CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

**REPLY MOTION RECORD**

**SimpsonWigle LAW LLP**  
200 – 1 Hunter Street East  
Hamilton, ON L8N 3W1

**Derek A. Schmuck** (LSUC #24551U)  
E-mail: [schmuckd@simpsonwigle.com](mailto:schmuckd@simpsonwigle.com)  
Tel: 905-528-8411  
Fax: 905-528-9008

Lawyers for Sereen Painting Ltd.