



**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

**72 JAMES INVESTMENTS INC. by their Trustee-in-Bankruptcy KSV  
RESTRUCTURING INC.**

Plaintiff

and

**2521325 ONTARIO INC. c.o.b. as INSPIRED CUSTOM DESIGNS**

Defendants

**STATEMENT OF CLAIM**

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

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.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date \_\_\_\_\_ Issued by \_\_\_\_\_  
Local Registrar

Address of  
court office: Superior Court of Justice  
45 Main Street East Hamilton, ON L8N  
2B7

TO: **2521325 Ontario Inc. c.o.b. as Inspired Custom Design**  
29 Hess Street, 2nd Floor  
Hamilton, ON L8P 3M7

## CLAIM

1. The Plaintiff claims against the Defendant, as follows:
  - (a) the sum of \$700,000.00;
  - (b) prejudgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
  - (c) post judgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
  - (d) the costs of this proceeding, plus all applicable taxes; and
  - (e) such further and other Relief as this Honourable Court may seem just.

## BACKGROUND

2. 72 James Investments Inc. (the “**Bankrupt**”) is a corporation duly incorporated pursuant to the laws of the Province of Ontario.
3. On February 26, 2024, KSV Restructuring Inc. was appointed the receiver of the Bankrupt by order of this court (the “**Receiver**”).
4. On October 7, 2024, the Receiver was authorized by an order of this Court to assign the Bankrupt into bankruptcy and to act as Trustee in Bankruptcy of the Bankrupt. The Bankrupt is referred to herein as the “**Plaintiff**.”
5. On October 16, 2024, the Receiver assigned the Bankrupt into bankruptcy and KSV Restructuring Inc. was appointed the Trustee in Bankruptcy (the “**Trustee**”).

6. The Defendant, 2521325 Ontario Inc., carrying on business as Inspired Custom Designs (hereinafter “**Inspired Custom Designs**”), is a corporation incorporated pursuant to the laws of the Province of Ontario.

7. At all relevant times, Inspired Custom Designs was a general contractor, contracted by the Plaintiff, to carry out repairs on the Plaintiff’s property located at 72 James Street, Hamilton, Ontario. Inspired Custom Designs is vicariously liable for the acts and omissions of its employees, servants, agents, assigns, contractors, subcontractors, suppliers, subsidiaries, and related entities.

8. In or around December 2022, the Plaintiff hired Inspired Custom Designs to make repairs to unit 556 at 72 James Street Hamilton in preparation for the arrival of a new tenant. 72 James Street is a residential rental building with five floors of apartments, including two retail tenants on the main floor/street level.

9. On or about December 24, 2022, an employee of Custom Inspired Designs left a window open at the unit when the party left for the day. As a result, the pipes in the sprinkler system in that unit froze, and subsequently burst. The burst pipe caused water damage to that unit, as well as to numerous other units in the building.

## **NEGLIGENCE**

10. The Plaintiff pleads that the aforementioned damages were caused by the negligence, want of care, and breach of duty of the Defendant, or their employees, servants, agents, assigns, contractors, subcontractors, suppliers, subsidiaries, and related entities,

for which the defendants are liable at law. Particulars of the Defendant's negligence, want of care, and breach of duty include, without limitation, the following:

- (a) They knew, or ought to have known, that leaving a window open in winter weather would have caused freezing to occur;
- (b) They failed to take reasonable steps to ensure that the worksite was kept in proper working order;
- (c) They failed to ensure that the unit they were working in was secured properly upon leaving the site for the day;
- (d) They failed to secure the worksite;
- (e) They failed to check for hazards;
- (f) They failed to take reasonable care attending at and inspecting the Property;
- (g) They knew, or ought to have known, of a condition at the Property which led to the Loss, yet it failed to alert the Plaintiff of same or failed to alert the Plaintiff of same in a timely and/or appropriate manner, which alerts would have prevented and/or mitigated the Loss;
- (h) They permitted a condition to exist which it knew or ought to have known might result in damage to the Premises and took no, or insufficient, steps to correct the condition or to prevent the Loss;

- (i) They hired incompetent contractors, sub-contractors, employees, servants and/or agents without proper knowledge of plumbing, heating and mechanical systems and/or plumbing, heating and/or mechanical system materials;
- (j) They failed to supervise, or failed to adequately supervise, the contractors, sub-contractors, employees, servants and/or agents who were hired to complete work at 72 James Street;
- (k) They unnecessarily exposed the interior of the Property to natural elements such as rain, sleet, snow and/or ice;
- (l) They failed to exercise due care and skill when carrying out construction of the Property;
- (m) They knew or ought to have known or with the exercise of reasonable diligence could have known that rain, sleet, snow and/or ice would enter the Property through the open window but failed to take steps, or appropriate steps, to prevent this from happening;

## **BREACH OF CONTRACT**

11. The Plaintiff pleads that they entered into a contract, or were third party beneficiaries to contracts, with the Defendant. The Plaintiff states that such contracts contained, without limitation, implicit and/or explicit terms, conditions, and/or warranties;

- (a) The job tasks would be completed using good quality materials and workmanship;

- (b) The work would be done in such a manner that no damage would occur to the property at 72 James Street, the contents stored therein, or to the Plaintiff's business operations; and
- (c) That the Defendant would reimburse the Plaintiff in the event that the Defendant's negligence resulted in damage to the property, the contents therein, or the Plaintiff's business operations.

12. The Plaintiff states that the Defendant has breached the aforementioned terms, conditions, and/or warranties of the contracts and must compensate the Plaintiff for all damages sustained as a result of said breaches.

13. The Plaintiff states that the Defendant represented that:

- (a) The job tasks would be completed using good quality materials and workmanship;
- (b) The work would be done in such a manner that no damage would occur to the property at 72 James Street, the contents stored therein, or to the Plaintiff's business operations; and
- (c) That the Defendant would reimburse the Plaintiff in the event that the Defendant's negligence resulted in damage to the property, the contents therein, or the Plaintiff's business operations.

14. The Plaintiff states that each of these representations were false and that they relied upon them to their detriment.

15. The Plaintiff states that the burst sprinkler and related water escape caused an unreasonable and substantial interference with the Plaintiff's use and enjoyment of the property. The Plaintiff pleads that such unreasonable and substantial interference constituted a nuisance at law for which the Defendant is liable.

16. The Plaintiff pleads that as a result of the Defendant's negligence, want of care, breach of duty, breach of contract and/or warranty, negligent misrepresentation and nuisance as plead herein, they suffered damages including, without limitation, property damage, out of pocket expenses, and loss of business income and opportunity. The full particulars of said damages will be provided to the Defendants prior to the trial of this action.

17. The Plaintiff pleads and relies upon the following:

- (a) The *Negligence Act*, R.S.O. 1990, c.N.1, as amended;
- (b) The *Building Code Act*, S.O. 1992, c. 23 as amended;
- (c) The *Technical Standards and Safety Act*, S.O. 2000, c.16, as amended, and all regulations thereto, including, without limiting the foregoing Ontario Regulation 213/01;
- (d) The *Consumer Protection Act*, 2002, S.O. 2002, c. 30, Sch. A, as amended
- (e) Such further and other statutes and regulations, the particulars of which will be provided to the Defendant prior to the trial of this action.



December 20, 2024

**Paliare Roland Rosenberg Rothstein  
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Lawyers for the Plaintiff

72 JAMES INVESTMENTS INC. by their Trustee-in- -and-  
Bankruptcy KSV RESTRUCTURING INC.  
Plaintiff

INSPIRED CUSTOM DESIGNS  
Defendant

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**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT HAMILTON

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**STATEMENT OF CLAIM**

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Toronto, Ontario M5V 3H1

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