

No. S-124409
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,
S.B.C. 2002, c.57, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF LEMARE
HOLDINGS LTD., LEMARE LAKE LOGGING LTD., LONE TREE LOGGING LTD.,
C. & E. ROADBUILDERS LTD., COAST DRYLAND SERVICES LTD., DOMINION LOG
SORT LTD. AND CENTRAL COAST INDUSTRIES LTD.

PETITIONERS

NOTICE OF APPLICATION

Name of applicant: Her Majesty the Queen in right of the Province of British Columbia (the
"Province")

To: The Service List

TAKE NOTICE that an application will be made by the applicant to the Honourable Mr. Justice
Grauer at the courthouse at 800 Smithe Street, Vancouver, British Columbia on 20/July/2012 at
10 am for the orders set out in Part 1 below.

Part 1: ORDER(S) SOUGHT

1. That the Petitioners' application for the claims process order attached as Schedule "B" to
their notice of application, dated July 17, 2012, be adjourned until the date set for the

Province's application to set aside or vary the initial order, made June 21, 2012, or some later date.

2. Such further and other relief as this Honourable Court may order.

Part 2: FACTUAL BASIS

3. The Province relies upon the factual basis set out in its application response, filed at the same time as this adjournment application.

Part 3: LEGAL BASIS

4. It is within the court's inherent jurisdiction to adjourn an application where there is a serious issue to be tried, the balance of conveniences favours the adjournment and the other party will not suffer irreparable harm.

Powerex Corp. v. Alcan Inc., 2004 BCSC 876 at para. 24

5. Supreme Court Civil Rule 13-1(19) provides that when making an order, the court may impose terms and conditions and give directions it considers will further the object of the Rules.
6. That object, set out in Rule 1-3(1) is to secure the just speedy and inexpensive determination of every proceeding on its merits.
7. It is in the interest of justice that the Province be given an opportunity to respond to the Petitioners' application for the initial order and to raise issues of jurisdiction and suitability of a *Companies' Creditors Arrangement Act* proceeding as the mechanism for resolving the dispute between the parties.
8. Judicial economy is best served by the court making no further orders in these proceedings until such time as the Province has been heard on these preliminary issues and the court has made a determination.

9. The Petitioners will suffer no prejudice from an adjournment because the Province is prepared to consent on a without prejudice basis to an extension of the initial order until these threshold issues are resolved by this Honourable Court.

Part 4: MATERIAL TO BE RELIED ON

1. The pleadings and other materials filed and to be filed herein; and
2. Such further and other material as counsel may advise and this Honourable Court may allow.

The applicant(s) estimate(s) that the application will take 30 minutes.

☐ This matter is within the jurisdiction of a master.

☒ This matter is not within the jurisdiction of a master. This matter is to be heard before the Honourable Mr. Justice Grauer.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to the application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on the person,
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

Date: July 19, 2012



Signature of
☐ applicant ☒ lawyer for applicant
David J. Hatter

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs of Part 1 of this notice of application

☐ with the following variations and additional terms:

.....
.....
.....

Date:[dd/mmm/yyyy].....

Signature of ☐ Judge ☐ Master

APPENDIX

[The following information is provided for data collection purposes only and is of no legal effect.]

THIS APPLICATION INVOLVES THE FOLLOWING:

[Check the box(es) below for the application type(s) included in this application.]

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend

☐ case plan orders: other

☐ experts

This **NOTICE OF APPLICATION** is prepared by **David J. Hatter**, Barrister & Solicitor, of the Ministry of Justice, whose place of business and address for service is Ministry of Justice, Legal Services Branch, PO BOX 9289 STN PROV GOVT, 400 - 1675 Douglas Street, Victoria, BC V8W 9J7 Facsimile: (250) 387-0700; Email Address: david.hatter@gov.bc.ca