



Form 3 (Rule 7(1)(a)(i))

Court of Appeal File No. CA-47585
Supreme Court File No. S-205095
Supreme Court Registry: Vancouver

COURT OF APPEAL

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 THE PLAN OF COMPROMISE AND ARRANGEMENT OF
PORT CAPITAL DEVELOPMENT (EV) INC. and EVERGREEN HOUSE
DEVELOPMENT LIMITED PARTNERSHIP

BETWEEN:

PORT CAPITAL DEVELOPMENT (EV) INC. and
EVERGREEN HOUSE DEVELOPMENT LIMITED PARTNERSHIP

Respondents
(Petitioners/Applicants)

AND:

1296371 B.C. LTD.

Appellant
(Respondent/Applicant)

AND:

CENTURA BUILDING SYSTEMS (2013) LTD. and
SOLTERRA ACQUISITIONS CORP.

Respondents
(Respondents)

NOTICE OF MOTION FOR LEAVE TO APPEAL

TO: The Respondents, Centura Building Systems (2013) Ltd. and Solterra Acquisitions Corp.

AND TO: Their Solicitors.

AND TO: The Service List, attached as Schedule "A"

TAKE NOTICE THAT AN APPLICATION will be made by the Appellant, 1296371 B.C. Ltd. ("**129**"), to a division of the Court of Appeal at The Law Courts at 800 Smithe Street, Vancouver, British Columbia, at 10:00 a.m. on Tuesday, the 17th day of August 2021, for leave to appeal the orders of Madam Justice Fitzpatrick of the

Supreme Court of British Columbia pronounced the 15th day of June, 2021, at Vancouver, British Columbia (i) dismissing the application of 129 to, *inter alia*, approve a refinancing transaction; and (ii) granting the application of Port Capital Development (EV) Inc. and Evergreen House Development Limited Partnership to, *inter alia*, approve the sale of certain assets to Solterra Acquisitions Corp., and for the following orders:

1. the hearing of this application for leave to appeal and if leave is granted, the appeal, be heard on an expedited basis;
2. 129 be granted leave to introduce evidence that arose after pronouncement of the above noted orders;
3. if leave is granted:
 - a. the Motion Book on this application for leave to appeal will stand as the Appeal Record on the appeal, and
 - b. the time for filing and serving facta and the Appeal Record be abridged;
4. execution of and proceedings on the orders of Madam Justice Fitzpatrick pronounced June 15, 2021, be stayed pending appeal;
5. if leave is granted, this Honourable Court convene a five-justice division to hear the appeal; and
6. such further and other relief as to this Honourable Court seems just.

AND TAKE NOTICE THAT in support of the application will be read the affidavit of Macario Teodoro Reyes sworn on July 30, 2021.

Dated at Vancouver, British Columbia, this 30th day of July, 2021.



Jordan Schultz
Solicitor for the Appellant

This application will take no more than 1 day to be heard.

SCHEDULE "A"

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF PORT CAPITAL DEVELOPMENT (EV) INC. and EVERGREEN HOUSE DEVELOPMENT LIMITED PARTNERSHIP

SERVICE LIST

UPDATED: June 7, 2021

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