



This the 1st Affidavit of Darlene Purdy
in this case and was made on 16th August 2022

COURT OF APPEAL FILE NO. CA48485

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 CANADA BUSINESS CORPORATIONS ACT,
R.S.C. 1985, C. c-44, AS AMENDED**

AND

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

BETWEEN:

1296371 B.C. Ltd.

**APPELLANT
(Respondent)**

AND:

PORT CAPITAL DEVELOPMENT (EV) INC.

**RESPONDENT
(Petitioner)**

AND:

**AVIVA INSURANCE COMPANY OF CANADA, ERNST & YOUNG INC.,
SOLTERRA ACQUISITIONS CORP. DOMAIN MORTGAGE CORP.,
JING CHIANG and THE HYNES GROUP**

**RESPONDENTS
((Respondents))**

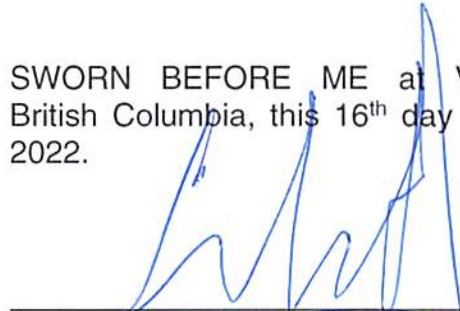
AFFIDAVIT

**I, DARLENE PURDY, Legal Assistant of 900 – 900 West Hastings Street,
Vancouver, British Columbia, SWEAR THAT:**

1. I am a legal assistant with Bridgehouse Law, counsel for the Appellant herein, and I have personal knowledge of the facts and matters hereinafter deposed to, save and except where stated to be on information and belief and where so stated I verily believe them to be true.
2. On Friday, August 12, 2022, we had a deadline to file an appeal with regard to the Order of the Honourable Madam Justice Fitzpatrick, made on July 22, 2022.
3. I had previously contacted the Court of Appeal as I had never done an appeal before and was advised that we needed to file our Application Book and a Form 4. They never mentioned having to file a Form 1.
4. All day on Friday we were preparing our Application book of the Appellant and Notice of Application for Leave to Appeal.
5. At 3:45 p.m., we started uploading our Application Book of the Appellant, but it would not upload. I got a popup saying that I could only upload 25 mb (even though the completion instructions said 100 MB). I got a popup advising that it needed to be in portrait (which the file was).
6. I then split the file into two parts advised in the completion instructions and tried uploading the documents again.
7. My coworker, Chantelle Wilson-Cole also tried uploading Volumes 1 and 2 of the Application Books. She showed me her screen where she got the popup that it needed to be in portrait mode, just like I received.
8. I called CSO Support Line to find out what the problem was and advised them that we were now passed our deadline due to the computer problems uploading to CSO. The support help line advised that trying to put the document into landscape and see if the system would upload it that way.
9. Chantelle tried uploading the Application Books again and received a popup that it needed an initiating document so she said she tried uploading the Notice of Application for Leave to Appeal and she still got the popup requiring an initiating document and I verily believe this to be true. The material would not upload.
10. I then tried uploading the Application Books and the Notice of Application for Leave to Appeal with it and I got the popup as well requiring the initiating document.
11. At 4:39 p.m. and 4:41 p.m. on August 12th I served copies of our unfiled Notice of Application for Leave to Appeal and our 2 volumes of the Appellant's Application Book on the Respondents. I had to do it in two emails due to size of the documents.
12. I talked with Mr. Ritchie Clark, Q.C., about it, advising we had missed the deadline with regard to filing because of the problems uploading. He advised me to wait until Monday morning when Court of Appeal opened and we would talk to them.

13. I phoned the Court of Appeal on Monday morning at 9:00 a.m. to advise them of our problems. The gentleman on the phone said we needed to file a Form 1 and I told him we were not advised of that previously. He said it was noted in the Rules.
14. On August 15, 2022, at 11:12 a.m., I submitted a Notice of Appeal I had drafted. At 1:03 p.m. it was rejected as I had not used the printed form in the Rules.
15. At 1:57 p.m. I submitted the printed form. At 2:33 p.m. it was rejected again as the box advising what type of proceeding we were appealing from, a Chambers Order, was not checked off.
16. At 3:14 p.m. I submitted the form again with the box for Chambers Judgment checked off.
17. At 3:58 p.m. it was rejected again as the document was in revision/edit mode.
18. At 4:06 p.m. I submitted the form to the Registry again.
19. As the document was courtesy rejected, the Notice of Appeal was accepted by the Registry and filed as of August 15, 2022.
20. I am filing this Affidavit in support of an application to extend the time to appeal herein to the 15th of August, 2022.

SWORN BEFORE ME at Vancouver,)
 British Columbia, this 16th day of August,)
 2022.)


 A Commissioner for taking Affidavits for the Province of
 British Columbia (H.C. Ritchie Clark, Q.C.))


 DARLENE PURDY

H.C. RITCHIE CLARK, Q.C.
Barrister & Solicitor
 Suite 900-900 West Hastings Street
 Vancouver, British Columbia
 V6C 1E5