



FORCE FILED

No. S-243389
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF
ECOASIS DEVELOPMENTS LLP AND OTHERS

BETWEEN:

SANOVEST HOLDINGS LTD.

PETITIONER

AND:

ECOASIS DEVELOPMENTS LLP et al.

RESPONDENTS

**NOTICE OF APPLICATION
(RE: LITIGATION SCHEDULE)**

Name of applicant: Sanovest Holdings Ltd. ("Sanovest")

To: the Service List attached hereto as **Schedule "A"**

TAKE NOTICE that an application will be made by the applicant to the Court at the courthouse at 800 Smithe Street, Vancouver, British Columbia on June 18, 2025 at 10:00 a.m. for the orders set out in Part 1 below.

The applicant estimates that the application will take one hour.

- ☐ This matter is within the jurisdiction of an associate judge
- ☒ This matter is not within the jurisdiction of an associate judge. Justice Walker is seized of the matter.

Part 1 ORDERS SOUGHT

1. An order substantially in the form attached hereto as **Schedule "B"** (the "**Case Plan Order**"), among other things, confirming the litigation schedule in respect of the Notice of Application filed on June 13, 2025 by the Petitioner, Sanovest Holdings Ltd. ("Sanovest"), in the

within proceedings (the “**Debt Declaration Application**”) seeking, amongst other things, the Declaration of Indebtedness Order (as defined in the Debt Declaration Application).

2. Such further and other relief as counsel may advise and this Honourable Court may permit.

Part 2 FACTUAL BASIS

Procedural Background

3. All capitalized terms used but not otherwise defined herein have the meanings given to them in Affidavit #3 of Tian Kusumoto, made May 29, 2025.

4. Sanovest owns 49.75% of the limited liability partnership units of the Developments Partnership. Sanovest is also a secured creditor of the Developments Partnership. Tian Kusumoto is the director of Sanovest.

Affidavit #3 of Tian Kusumoto, made May 29, 2025, paras 1, 6, 10 [Kusumoto #3].

5. 599315 B.C. Ltd. (“**599**”) also owns 49.75% of the Developments Partnership. Daniel Matthews is the president and director of 599.

Kusumoto #3, paras 6-7.

6. The Developments Partnership also owns 99.5% of the limited liability partnership units of the Resort Partnership. The Developments Partnership and the Resort Partnership together own certain lands near Victoria, B.C., which were the focus of a residential development project known as “Bear Mountain”. The Resort Partnership also owns and operates a golf course and tennis facilities within the development.

Kusumoto #3, para 5.

7. Ecoasis Bear Mountain Developments Ltd. (“**EBMD**”) owns the remaining limited liability partnership units in both the Developments Partnership and the Resort Partnership (together, the “**Partnerships**”). Sanovest and 599 each own half of the shares of EBMD and Mr. Kusumoto and Matthews are each directors of EBMD. Until September 18, 2024, the date on which the receivership order (the “**Receivership Order**”) was granted in these proceedings,

EBMD also managed both of the Partnerships. Upon the issuance of the Receivership Order, EBMD ceased managing the Developments Partnership, but, pending further order of the court, it continues to manage the Resort Partnerships' operations and business.

Kusumoto #3, paras 1, 6-8; Order of the Honourable Justice Walker, granted September 18, 2024, *In the Matter of the Receivership of Ecoasis Developments LLP and Others*, Supreme Court of British Columbia In Bankruptcy and Insolvency File No. S-243389, at paras 1-2 [Receivership Order].

8. The lands comprising the Bear Mountain project are beneficially owned by one or the other of the Partnerships but are legally owned by various nominee companies which are Respondents in these proceedings, being the Nominee Guarantors. Mr. Kusumoto and Mr. Matthews are the directors of each of the Nominee Guarantors.

Kusumoto #3, paras 1, 7, 9.

9. These proceedings were initiated in large part due to the existence of an intractable dispute between Sanovest and 599, resulting in a multiplicity of litigation among those parties and certain of the other Respondents (the "**Litigation**").

Kusumoto #3, paras 11-12.

10. On September 18, 2024, Sanovest sought, and this Court granted, the Receivership Order appointing Alvarez & Marsal Canada Inc. as receiver and manager (in such capacity, the "**Receiver**") of: (i) the Lands beneficially owned by the Resort Partnership; (ii) the Lands owned by the Respondent Bear Mountain Adventures Ltd.; and (iii) all of the assets and undertakings of each of the other Respondents, pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the "**BIA**"), and the *Law and Equity Act*, RSBC 1996, c 253 (the "**Receivership Proceedings**"). The Receivership Proceedings do not include or impact the "Oppression Litigation", as defined in the Receivership Order.

Kusumoto #3, para 2; Receivership Order.

11. The Receiver is planning to conduct a sale process as part of the Receivership Proceedings in respect of the lands comprising the Bear Mountain project, which may include a stalking horse bid from Sanovest. Sanovest's stalking horse bid contemplates, amongst other things, the retention of the secured Indebtedness owing to it. Accordingly, it is necessary for the Receiver (and other stakeholders) to know the amount of the Indebtedness in order to determine the financial implications of the bid.

Kusumoto #3, paras 34-37, 40.

12. In the event that the Receiver does not select the Sanovest Stalking Horse Bid or does not move forward with a stalking horse process, Sanovest remains the Respondents' largest secured creditor in these proceedings. The amount of the Indebtedness will still need to be determined to properly evaluate any bids received in the sale process as well as the financial implications of any such bid, i.e. which creditors stand to recover amounts owing to them in the event a particular bid is accepted. The requested determination is also necessary to effect distributions to creditors from any sale proceeds arising from the completion of any transaction(s) emanating from the sale process. As such, the amount of the Indebtedness has significant implications for other stakeholders in these proceedings.

Kusumoto #3, para 41.

13. 599 and Mr. Matthews have historically disputed the amount of the Indebtedness. Given the litigious relationship between Sanovest and 599 and Mr. Matthews, Sanovest filed the Debt Declaration Application seeking, among other things, the granting of the Declaration of Indebtedness Order.

14. A prolonged dispute in respect of the validity, enforceability, priority, and amount of the Indebtedness owing to Sanovest will cause undue delays in the Receivership Proceedings. While such a declaration is necessary, it should proceed on an expedited or summary basis to limit distractions, delays, and the incurrence of additional costs by all parties to the Receivership Proceedings.

Part 3 LEGAL BASIS

15. Sanovest relies on the following:

- (a) *Bankruptcy and Insolvency Act*, RSC 1985, c B-3;
- (b) *Supreme Court Civil Rules*, BC Reg 168/2009;
- (c) the inherent jurisdiction of this Honourable Court; and
- (d) such further and other legal basis as counsel may advise and this Honourable Court may allow.

16. Canadian courts have recognized the need to resolve disputed creditor claims quickly in the context of traditional claims processes conducted in insolvency proceedings. In particular, the BIA must be interpreted in a commercially reasonable manner and with regard to the need to resolve disputes in an “expedited fashion” while still ensuring the fairness of the process. This approach is similar to that set out in the provisions of the *Companies’ Creditors Arrangement Act* (the “CCAA”), whereby disputed claims are to be determined in a summary manner on application by the debtor company or the creditor. Justice Fitzpatrick has stated that both the BIA and the CCAA recognize that creditor claims must be determined “as quickly as possible to allow for a timely distribution to creditors”, as delays in recovery can result in prejudice to creditors.

San Juan Resources Inc (Re), 2009 ABQB 55 at para 30; *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36 at s 20(1); *Walter Energy Canada Holdings, Inc (Re)*, 2017 BCSC 709 at paras 15-16.

17. The above interpretations are consistent with the Supreme Court of Canada’s observation that commercial courts operate in “the hothouse of real-time litigation” and, as such, these courts have been given broad judicial discretion to make the orders necessary in these conditions.

Century Services Inc v Canada (Attorney General), 2010 SCC 60 at para 58.

18. The Supreme Court of Canada has also noted that in light of the broad public interests engaged by a company’s insolvency, stakeholders may access a broad range of judicial procedures

to resolve problems that may arise in the insolvency. Efficiency, expediency, and procedural flexibility are hallmarks of the insolvency law regime. Procedural flexibility allows the courts to provide a “forum for the orderly resolution” of stakeholders’ competing rights and objectives, in part, by designing a process and outcome that is suitable for each case.

Peace River Hydro Partners v Petrowest Corp, 2022 SCC 41 at paras 52-53, 60, 64, 66.

19. An expedited approach also meets the objectives of the *Supreme Court Civil Rules* to reach a “just, speedy and inexpensive determination of every proceeding on its merits.”

Supreme Court Civil Rules, BC Reg 168/2009 at R 1-3(1).

20. This Court has previously granted relief similar to that being sought by Sanovest in the context of a receivership. In *Forjay*, Justice Fitzpatrick heard applications to determine the validity, enforceability, and priority of first and second mortgages by way of a hybrid summary trial. At the time, the receiver was conducting a sale process for the units in the subject condominium development and the mortgagees stood to consume almost the entirety of the resulting sale proceeds if their applications were decided in their favour.

Forjay Management Ltd v 0981478 BC Ltd, 2019 BCSC 238 at paras 2-6 [*Forjay*] varied in part on appeal in *Forjay Management Ltd v 625536 BC Ltd*, 2020 BCCA 70.

21. In *Forjay*, the applications proceeded in accordance with the terms of case planning orders which provided for, among other things, opportunities for examination for discovery and document production in respect of the relevant issues. The evidence before the Court at the time of the summary trial consisted of affidavits, read-ins from the discovery transcripts, and *viva voce* evidence from cross-examinations on affidavits.

Forjay, paras 4-5.

22. Likewise in the receivership proceedings of Skeena Sawmills Ltd., the Court ultimately made declarations as to the validity, enforceability, priority, and amounts of certain loan agreements and security on the petition of a secured creditor using expedited procedures (being approximately 20 days from the filing date of the Notice of Application to the hearing date) on a

summary trial basis. The petition occurred in the context of an ongoing sale process being conducted by the receiver.

Order of the Honourable Justice Blake, granted December 22, 2023, *1392752 BC Ltd v Skeena Sawmills Ltd, et al*, Supreme Court of British Columbia Court File No. S-236214; Order of the Honourable Justice Blake, granted January 25, 2024, *1392752 BC Ltd v Skeena Sawmills Ltd, et al*, Supreme Court of British Columbia Court File No. S-236214; Third Report of the Receiver, dated January 12, 2024.

23. The proposed relief set out in Part 1 will ensure the procedural fairness of the Debt Declaration Application going forward for all parties, including ensuring all parties have the opportunity to respond, while furthering the goals of resolving a disputed claim of a secured creditor in a commercially reasonable, expeditious, and cost-effective manner. These goals are particularly pertinent in the present circumstances given the Receiver is actively taking steps to implement a sale process, making determinations in respect of the validity, enforceability, priority, and amount of the Indebtedness owing to Sanovest a central issue to the within Receivership Proceedings.

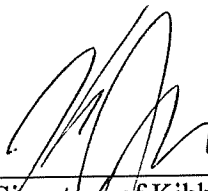
Part 4 MATERIAL TO BE RELIED ON

- 24. Affidavit #1 of Tian Kusumoto, made May 22, 2024.
- 25. Affidavit #3 of Tian Kusumoto, made May 29, 2025.
- 26. Affidavit #1 of Suzanne Volkow, made May 16, 2024.
- 27. The pleadings and other materials previously filed in these proceedings.
- 28. Such further and other materials as counsel may advise and this Honourable Court may allow.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of 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 that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated: June 17, 2025



Signature of Kibben Jackson/Jessica
Cameron
Lawyers for Sanovest Holdings Ltd.

<i>To be completed by the court only:</i>	
Order made	
<input type="checkbox"/>	in the terms requested in paragraphs of Part 1 of this Notice of Application
<input type="checkbox"/>	with the following variations and additional terms:
Date:	
.....	
Signature of <input type="checkbox"/> Judge <input type="checkbox"/> Associate Judge	

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ 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
- ☐ none of the above

Schedule "A"

Service List

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE RECEIVERSHIP OF
ECOASIS DEVELOPMENTS LLP AND OTHERS**

BETWEEN:

SANOVEST HOLDINGS LTD.

PETITIONER

AND:

ECOASIS DEVELOPMENTS LLP, ECOASIS BEAR MOUNTAIN DEVELOPMENTS LTD., ECOASIS RESORT AND GOLF LLP, 0884185 B.C. LTD., 0884188 B.C. LTD., 0884190 B.C. LTD., 0884194 B.C. LTD., BM 81/82 LANDS LTD., BM 83 LANDS LTD., BM 84 LANDS LTD., BM CAPELLA LANDS LTD., BM HIGHLANDS GOLF COURSE LTD., BM HIGHLANDS LANDS LTD., BM MOUNTAIN GOLF COURSE LTD., and BEAR MOUNTAIN ADVENTURES LTD.

RESPONDENTS

SERVICE LIST

(as of May 7, 2025)

Alvarez & Marsal Canada Inc. Cathedral Place Building 925 West Georgia Street, Suite 902 Vancouver, BC, V6C 3L2 Todd Martin email: tmartin@alvarezandmarsal.com Anthony Tillman email: atillman@alvarezandmarsal.com Marianna Lee email: marianna.lee@alvarezandmarsal.com Taylor Poirier email: tpoirier@alvarezandmarsal.com <i>Court-appointed Receiver</i>	Blake, Cassels & Graydon LLP 1133 Melville Street Suite 3500, The Stack Vancouver, BC V6E 4E5 Peter Rubin email: peter.rubin@blakes.com Peter Bychawski email: peter.bychawski@blakes.com <i>Counsel for the Receiver</i>
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<p>Fasken Martineau DuMoulin LLP 550 Burrard Street, Suite 2900 Vancouver, BC V6C 0A3</p> <p>Kibben Jackson email: kjackson@fasken.com</p> <p>Lisa Hiebert email: lhiebert@fasken.com</p> <p>Suzanne Volkow email: svolkow@fasken.com</p> <p><i>Counsel for Sanovest Holdings Ltd.</i></p>	<p>Lawson Lundell LLP Cathedral Place Building 925 West Georgia Street, Suite 1600 Vancouver, BC, V6C 3L2</p> <p>William Roberts email: wroberts@lawsonlundell.com</p> <p>Gordon Brandt email: gbrandt@lawsonlundell.com</p> <p><i>Counsel for 599315 B.C. Ltd. and Daniel Matthews</i></p>
<p>Young Anderson c/o 1616 – 808 Nelson Street Vancouver, BC V6Z 2H2</p> <p>Sukhbir Manhas email: manhas@younganderson.ca</p> <p><i>Counsel for City of Langford</i></p>	<p>Singleton Urquhart Reynolds Vogel LLP 1200 – 925 West Georgia Street Vancouver, BC V6C 3L2</p> <p>Mark C. Stacey email: mstacey@singleton.com service@singleton.com</p> <p><i>Counsel for Bear Mountain Resort and Spa Ltd.</i></p>
<p>Stevenson Luchies & Legh Barristers & Solicitors 300-736 Broughton Street Victoria, BC V8W 1E1</p> <p>Justin J. Hanson email: hanson@sl.ca</p> <p><i>Solicitor for The Owners, Strata Plan EPS 5110</i></p>	<p>Jack's Place / Kuma Sushi Bear Mountain 2020 Country Club Way Langford, BC V9B 6R3</p> <p>Jody Twa email: jodytwa@shaw.ca</p>
<p>Boughton Law Corporation 700 - 595 Burrard Street Vancouver, BC V7X 1S8</p> <p>Martin Sennott email: msennott@boughtonlaw.com</p> <p>Sherri Evans email: sevens@boughtonlaw.com</p>	<p>Strata Plan VIS 6037 1999 Country Club Way Victoria, BC V9B 6R3</p> <p>David Clarke email: david.clarke@westinbearmountain.com</p> <p><i>President of Strata Plan VIS 6037</i></p>
<p>Ministry of Attorney General Legal Services Branch Justice, Health & Revenue Group 2nd Floor - 1001 Douglas Street Victoria, BC V8W 9J7</p> <p>email: AGLSBRevTaxInsolvency@gov.bc.ca</p> <p><i>Counsel for the His Majesty the King in right of the Province of British Columbia</i></p>	

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Schedule “B”

Draft Order

No. S-243389
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF
ECOASIS DEVELOPMENTS LLP AND OTHERS

BETWEEN:

SANOVEST HOLDINGS LTD.

PETITIONER

AND:

ECOASIS DEVELOPMENTS LLP, ECOASIS BEAR
MOUNTAIN DEVELOPMENTS LTD., ECOASIS RESORT
AND GOLF LLP, 0884185 B.C. LTD., 0884188 B.C. LTD.,
0884190 B.C. LTD., 0884194 B.C. LTD., BM 81/82 LANDS
LTD., BM 83 LANDS LTD., BM 84 LANDS LTD., BM
CAPELLA LANDS LTD., BM HIGHLANDS GOLF COURSE
LTD., BM HIGHLANDS LANDS LTD., BM MOUNTAIN GOLF
COURSE LTD. and BEAR MOUNTAIN ADVENTURES LTD.

RESPONDENTS

CASE PLAN ORDER

BEFORE THE HONOURABLE
JUSTICE WALKER

THE [●] DAY OF [●], 2025

ON THE APPLICATION of the Petitioner, Sanovest Holdings Ltd. (“**Sanovest**”), coming on for hearing at Vancouver, British Columbia; AND ON HEARING Kibben Jackson and Jessica Cameron, counsel for Sanovest, Craig A.B. Ferris, K.C., William L. Roberts, and Gordon Brandt, counsel for 599315 B.C. Ltd. (“**599**”) and Daniel Matthews, Peter Rubin, counsel for Alvarez & Marsal Canada Inc. (the “**Receiver**”) in its capacity as the receiver of certain assets of the Respondents, and those other counsel enumerated in Schedule “A” hereto, and no one else appearing, although duly served; AND UPON READING the materials filed, including Affidavit #1 of Tian Kusumoto, made May 22, 2024, Affidavit #3 of Tian Kusumoto, made May 29, 2025

(the “**Third Kusumoto Affidavit**”), and Affidavit #1 of Suzanne Volkow, made May 16, 2024; AND PURSUANT TO the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, the *Law and Equity Act*, R.S.B.C. 1996, c. 253, the *British Columbia Supreme Court Civil Rules*, and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

SERVICE

1. The time for service of the notice of application and supporting materials for this order is hereby abridged and deemed good and sufficient and this application is properly returnable today.
2. All capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Third Kusumoto Affidavit.

LITIGATION SCHEDULE

3. Sanovest’s application seeking a declaration as to the validity, enforceability, priority, and amount of the secured debt owing by the Respondents to Sanovest pursuant to the Sanovest Loan Agreement, the Guarantees, and the Security (the “**Debt Declaration Application**”), all as set out in Sanovest’s Notice of Application filed herein on June 13, 2025, is hereby adjourned to be heard on [●], 2025, in accordance with the schedule set forth in this order.
4. Notwithstanding the foregoing, the hearing for the Debt Declaration Application may proceed at an earlier date subject to the consent of Sanovest and of 599 and Mr. Matthews (together, the “**Application Respondents**”).
5. The following dates apply for the filing and service of materials in the Debt Declaration Application:
 - (a) on or before July 18, 2025, all parties that intend to oppose or otherwise advise as to their position on the relief sought by Sanovest on the Debt Declaration Application (hereafter, such parties together with Sanovest are referred to as the “**Debt Application Parties**”) shall file and serve on Sanovest any responding materials, including a Response to Notice of Application along with any supporting affidavits that they intend to rely upon;

- (b) on or before August 1, 2025, Sanovest shall file and serve on the Debt Application Parties any additional materials, including any Reply and additional affidavits arising from the Responses to Notice of Application that it intends to rely upon;
 - (c) on or before August 22, 2025, each of the Debt Application Parties shall be entitled to conduct cross-examinations for not more than one-half day on any affidavits filed or admitted in these proceedings;
 - (d) on or before September 5, 2025, each of the Debt Application Parties shall deliver responses to any outstanding requests that may have been made during the aforementioned cross-examinations;
 - (e) on or before September 19, 2025, each of the Debt Application Parties shall deliver any additional affidavits on which they intend to rely;
 - (f) on or before September 26, 2025, the Receiver shall deliver to each of the Debt Application Parties any further reports respecting the Debt Declaration Application, if any;
 - (g) on or before October 3, 2025, each of the Debt Application Parties that intends to appear at the hearing of the Debt Declaration Application shall deliver written submissions to each of the other Debt Application Parties; and
 - (h) the hearing of the Debt Declaration Application shall be heard over [●] days from October [●] to [●], 2025.
6. Endorsement of this Order by counsel appearing on this application other than the Petitioner, counsel for the Application Respondents, and counsel for the Receiver is dispensed with.

THE FOLLOWING PARTIES APPROVE OF THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

APPROVED BY

Signature of Kibben Jackson/Jessica
Cameron, lawyers for the Petitioner,
Sanovest Holdings Ltd.

Signature of Craig A.B. Ferris,
K.C./William L. Roberts, lawyers for
599315 B.C. Ltd. and Daniel Matthews

Signature of Peter Rubin, lawyer for
the Receiver, Alvarez & Marsal
Canada Inc.

BY THE COURT

REGISTRAR

No. S-243389
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

SANOVEST HOLDINGS LTD.

PETITIONER

AND:

ECOASIS DEVELOPMENTS LLP and others

RESPONDENTS

ORDER

FASKEN MARTINEAU DUMOULIN LLP

Barristers and Solicitors

Suite 2900, 550 Burrard Street

Vancouver, BC V6C 0A3

Attn: Kibben Jackson / Jessica Cameron

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kjackson@fasken.com / jcameron@fasken.com

Matter No: 329480.00004