

FORM 7
[RULE 3.8]

CLERK'S STAMP

COURT FILE NUMBER

2401-15969

COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

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

AND IN THE MATTER OF A PLAN OF
COMPROMISE OR ARRANGEMENT OF
ANGUS A2A GP INC., ANGUS MANOR PARK
A2A GP INC., ANGUS MANOR PARK A2A
CAPITAL CORP., ANGUS MANOR PARK A2A
DEVELOPMENTS INC., HILLS OF
WINDRIDGE A2A GP INC., WINDRIDGE A2A
DEVELOPMENTS, LLC, FOSSIL CREEK A2A
GP INC., FOSSIL CREEK A2A
DEVELOPMENTS, LCC, A2A
DEVELOPMENTS INC., SERENE COUNTRY
HOMES (CANADA) INC. and A2A CAPITAL
SERVICES CANADA INC.

APPLICANTS

ANGUS A2A GP INC., ANGUS MANOR PARK
A2A GP INC., ANGUS MANOR PARK A2A
CAPITAL CORP., ANGUS MANOR PARK A2A
DEVELOPMENTS INC., HILLS OF
WINDRIDGE A2A GP INC., FOSSIL CREEK
A2A GP INC., FOSSIL CREEK A2A, A2A
DEVELOPMENTS INC., SERENE COUNTRY
HOMES (CANADA) INC. and A2A CAPITAL
SERVICES CANADA INC.

DOCUMENT

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

APPLICATION

Miles Davison LLP
900, 517 – 10th Avenue SW
Calgary, AB T2R 0A8
Attention: Dan Jukes
Phone: (403) 298-0327
E-mail: djukes@milesdavison.com

NOTICE TO THE RESPONDENTS

This application is made against you. You are a respondent.
You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date:	By desk application before the Honourable Justice C. Feasby or alternatively, Wednesday December 18, 2024
Time:	By desk application or alternatively, 10:00 am
Where:	Calgary Courts Centre (via video conference)
Before:	The Honourable Justice C. Feasby or alternatively, the Honourable Justice in Chambers

Go to the end of this document to see what you can do and when you must do it.

Remedy Sought:

1. An Order extending the time to file an Application for Permission to Appeal and a Civil Notice of Appeal of the Initial Order of the Honourable Justice Feasby filed November 14, 2024 pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended ("Initial Order") to December 31, 2024 or such further or other date as this Court deems appropriate, in the form attached hereto as **Schedule "1"**.

Basis for Claim:

2. The Applicants were named in the Originating Notice in this action as "Debtor Companies" to which the *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36, as amended (the "**CCAA**") applies.
3. In a proceeding under the CCAA, the discretion to extend time to appeal is vested solely in the Court appealed from (*Bank of Montreal v Cage Logistics Inc.*, 2003 ABCA 36 at para 17). Therefore, the Court of King's Bench of Alberta is the only Court which may grant an extension of time to file an Application for Permission to Appeal, and a Civil Notice of Appeal, of the Initial Order.
4. The Applicants were served with an application for an Initial Order under the CCAA on November 12, 2024, for a hearing which took place 2 days later, on November 14, 2024 ("**CCAA Proceedings**").

5. The Honourable Justice Feasby of this Court granted the Initial Order on November 14, 2024 (“**Initial Order**”) for a stay of proceedings until November 24, 2024, or such later date as this Court may order (the “**Stay Period**”).
6. The Initial Order also directed that the parties would return to Court on November 21, 2024. On this date, the parties appeared before the Honourable Justice Simard who granted an extension of the Stay Period to November 26, 2024. On November 25, 2024, Justice Simard granted a further extension of the Stay Period to December 18, 2024 for a limited purpose as set out in the Amended and Restated Initial Order granted November 25, 2024 (the “**ARIO**”).
7. Pursuant to section 14 of the CCAA, an order must be appealed within 21 days of when was granted. The Initial Order was thus required to be appealed on or before December 5, 2024.
8. The Applicants retained Bennett Jones LLP on December 13, 2024 to represent them in the CCAA Proceedings.
9. The Applicants had two days from when they learned of the application for the Initial Order to when they had to appear in Court. The Applicants had to respond to voluminous materials provided for the application for the Initial Order.
10. Once the Initial Order was granted, the Applicants were occupied with complying with that Order, which also required them to provide financial information, and with further responding to the CCAA proceedings and the application for the ARIO.
11. The Appellants are also seeking leave to appeal the Order of Justice Simard granted November 25, 2026, and are within the 21-day period allowed under the CCAA for that Appeal. The two orders are inextricably linked and ought to be considered together.
12. There is merit to the Applicants’ appeal, as the Applicants to this extension Application are not “debtor companies” within the meaning of the CCAA, as they are not insolvent. Furthermore, the Order was granted without due process despite a sufficient lack of urgency.

13. In addition, the Respondents (Applicants to the Initial Order) are attempting to utilize the CCAA in an abusive fashion for reasons beyond its proper scope and purpose.
14. There is prejudice to the Applicants if they are forced to comply with Orders from Canadian Courts without a determination of whether they are properly Debtor Companies under the CCAA.
15. The Applicants respectfully request this extension so that an Application for Permission to Appeal the Initial Order and a Civil Notice of Appeal of the Initial Order may be prepared and filed.

Affidavit or other evidence to be used in support of this application:

16. Affidavit of Grayson Ambrose sworn November 21, 2024.
17. Affidavit of Allan Whiteford Lind sworn November 21, 2024.
18. Such further and other materials as this Honourable Court may direct.

Applicable Acts and regulations:

19. *Rule 1.4(2)(h) of the Alberta Rules of Court*
20. *Companies' Creditors Arrangement Act, RSC 1985, c. C-36*

WARNING

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

SCHEDULE "1"

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ORDER

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Miles Davison LLP
900, 517 – 10th Avenue SW
Calgary, AB T2R 0A8
Attention: Dan Jukes
Phone: (403) 298-0327
E-mail: djukes@milesdavison.com

DATE ON WHICH ORDER WAS PRONOUNCED: December ____, 2024

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

JUSTICE WHO MADE THIS ORDER: The Honourable Justice _____

UPON the application of the Applicants listed in this Application; **AND UPON** having read the Initial Order granted in these *Companies' Creditors Arrangement Act* (Canada) proceedings by the Honourable Justice C. Feasby on November 14, 2024, the Affidavit of Allan Whiteford Lind sworn November 21, 2024, and the Affidavit of Grayson Ambrose sworn November 21, 2024; **AND UPON** hearing from counsel for the Applicants; **IT IS HEREBY ORDERED AND DECLARED THAT:**

1. The time for the Applicants to appeal and to seek permission to appeal the Initial Order granted in these proceedings is extended to December 31, 2024.
2. This Order shall be served upon the Service List maintained by the Monitor in these CCAA Proceedings.

Justice of the Court of King's Bench of Alberta