

C52790

COURT FILE NUMBER 2201-03735
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF THE BANK OF MONTREAL
DEFENDANTS THE INSTITUTE OF WELLNESS AND ADVANCED
AESTHETICS LTD., WANDA LEE, THE ESTATE OF JONATHAN
PATRICK LEE, 1608309 ALBERTA LTD., and MOUNT ROYAL
SURGICAL CENTRE INC.



DOCUMENT APPLICATION

\$50.00
COM
May 26 2022

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT: McCarthy Tétrault LLP
4000, 421 – 7th Avenue SW
Calgary, Alberta T2P 4K9
Attention: Walker W. MacLeod
Tel: 403-260-3710
Fax: 403-260-3501
Email: wmacleod@mccarthy.ca

Entered

NOTICE TO RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

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

Date: May 26, 2022
Time: 11:00 a.m.
Where: Edmonton Law Courts (Virtual Courtroom via WebEx – see
Schedule “A” hereto)
Before Whom: The Honourable Justice K. Feth

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

Remedy claimed or sought: Alvarez & Marsal Canada Inc. (the “**Receiver**”), in its capacity as the court-appointed receiver and manager of the assets, properties, and undertakings (collectively, the “**Property**”) of The Institute of Wellness and Advanced Aesthetics Ltd., 1608309 Alberta Ltd., and Mount Royal Surgical Centre Inc. (collectively, the “**Debtors**”) pursuant to the Receivership Order, granted by the Honourable Justice J.T. Neilson on April 1, 2022 (the “**Receivership Order**”), in the within proceedings (the “**Proceedings**”), applies for an Order, substantially in the form attached as Schedule “B” hereto:

1. If necessary, declaring that the time for service of this application (the “**Application**”) and the First Report of the Receiver, dated May 25, 2022 (the “**First Receiver’s Report**”), is abridged, that the Application is properly returnable on May 26, 2022, that service of the Application and the First Receiver’s Report, on the service list, is good and sufficient, and that no persons other than those on the service list are entitled to service of the First Receiver’s Report, the Application, or any orders arising therefrom.
2. Ordering and directing Ms. Grace Yan (“**Ms. Yan**”) and Vanovermeire Realty Inc. (“**Vanovermeire**”) respond to inquiries made by the Receiver in respect of the MLS Listing (as defined herein) within twenty-four hours of such inquiries being made by the Receiver.
3. Ordering and declaring that service of any orders arising from this Application by email, facsimile, registered mail, courier, regular mail, or personal delivery, to the persons listed on the service list, present at the Application, or who were otherwise served with the Application, shall constitute good and sufficient service of such orders and that no persons other than those on the service list are entitled to be served with a copy of such orders.
4. Such further and other relief as counsel for the Receiver may advise and this Honourable Court considers to be just and appropriate in the circumstances.

Grounds for Making this Application: The grounds for the Application are as follows:

Background

5. The Receiver was appointed as the receiver and manager of the Debtors and their Property, pursuant to the Receivership Order.
6. Pursuant to the Receivership Order, the Receiver is exclusively authorized and empowered to exercise control over the Property, to the exclusion of all other Persons (as defined in the Receivership Order), including the Debtors, and without interference from any other Person (as defined in the Receivership Order).
7. On April 27, 2022, the Receiver initiated a sales process (the “**Sales Process**”). The primary asset that is being marketed pursuant to the Sales Process is a leasehold interest in a real property surgical facility located at 3007 – 14th Avenue SW (the “**Surgical Facility**”). The Surgical Facility is approximately 9,000 square feet and contains operating rooms, treatment rooms and doctor’s offices.

8. Over the course of the Sales Process, Ms. Yan has had various contact with the Receiver in relation to the Surgical Facility. This includes Ms. Yan communicating information or requesting the involvement of Ms. Wanda Lee, who is the former principal of the Debtors.
9. On May 20, 2022, the Receiver became aware that Ms. Yan and Vanovermeire (which is the legal entity that holds the trade name for “Coldwell Banker Mountain Central”) are identified as the listing agent on the Multiple Listing Service (“**MLS**”) for a property identified as “123 Medical” with MLS listing number A1216384 (the “**MLS Listing**”).
10. The MLS Listing pertains to a property purportedly located at 334 – 22 Avenue SW, which is a strip mall and, to the knowledge of the Receiver, does not have any medical or surgical offices. The MLS Listing describes the subject property as being zoned Commercial-Medical and having two operating rooms, eleven treatment rooms and five doctor offices, which is effectively identical to the Surgical Facility being marketed by the Receiver pursuant to the Sales Process.
11. The Receiver has made inquiries of Ms. Yan in respect of the MLS Listing. As of the date of this Application, Ms. Yan has not responded to the inquiries of the Receiver.
12. Such further and other considerations, as counsel may advise and this Honourable Court considers just and appropriate in the circumstances.

Affidavit or other Evidence and Materials to be used in Support of this Application:

13. The First Report of the Receiver, dated May 25, 2022, filed.
14. Such further and other evidence or materials as counsel may advise and this Honourable Court may permit.

Applicable Rules:

15. Rule 6.3, 6.9, 6.28, and 11.27 of the *Alberta Rules Of Court*, Alta. Reg. 124/2010.
16. Such further and other rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and Regulations:

17. The *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.

18. Such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

Any Irregularity Complained of or Objection Relied On:

19. There are no irregularities complained of or objections relied on.

How the Application is Proposed to be Heard or Considered:

20. The Receiver proposes that this Application be heard via WebEx with one, some, or all of the parties present.

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

SCHEDULE “A” TO THE APPLICATION WEBEX INSTRUCTIONS

Virtual Courtroom 86 has been assigned for the above noted matter:

Virtual Courtroom Link:

<https://albertacourts.webex.com/meet/virtual.courtroom86>

Instructions for Connecting to the Meeting

1. Click on the link above or open up Chrome or Firefox and cut and paste it into your browser address bar.
2. If you do not have the Cisco Webex application already installed on your device, the site will have a button to install it. Follow installation instructions. Enter your full name and email address when prompted
3. Click on the **Open Cisco Webex Meeting**.
4. You will see a preview screen. Click on **Join Meeting**.

Key considerations for those attending:

1. Please connect to the courtroom **15 minutes prior** to the start of the hearing.
2. Please ensure that your microphone is muted and remains muted for the duration of the proceeding, unless you are speaking. Ensure that you state your name each time you speak.
3. If bandwidth becomes an issue, some participants may be asked to turn off their video and participate by audio only.
4. **Note: Recording or rebroadcasting of the video is prohibited.**
5. **Note: It is highly recommended you use headphones with a microphone or a headset when using Webex. This prevents feedback.**

If you are a non-lawyer attending this hearing remotely, **you must** complete the undertaking located here: <https://www.albertacourts.ca/qb/resources/announcements/undertaking-and-agreement-for-non-lawyers>

For more information relating to Webex protocols and procedures, please visit: <https://www.albertacourts.ca/qb/court-operations-schedules/webex-remote-hearings-protocol>

You can also join the meeting via the “Cisco Webex Meetings” App on your smartphone/tablet or other smart device. You can download this via the App marketplace and join via the link provided above.

**SCHEDULE "B" TO THE APPLICATION
ORDER**

COURT FILE NUMBER 2201-03735
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF THE BANK OF MONTREAL

Clerk's Stamp

DEFENDANTS THE INSTITUTE OF WELLNESS AND ADVANCED
AESTHETICS LTD., WANDA LEE, THE ESTATE OF JONATHAN
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DOCUMENT ORDER

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT: McCarthy Tétrault LLP
4000, 421 – 7th Avenue SW
Calgary, Alberta T2P 4K9
Attention: Walker W. MacLeod
Tel: 403-260-3710
Fax: 403-260-3501
Email: wmacleod@mccarthy.ca

DATE ON WHICH ORDER WAS PRONOUNCED: May 26, 2022
LOCATION OF HEARING OR TRIAL: Edmonton, Alberta
NAME OF JUDGE WHO MADE THIS ORDER: Honourable Justice K. Feth

UPON the application (the "**Application**") of Alvarez & Marsal Canada Inc. (the "**Receiver**"), in its capacity as the court-appointed receiver and manager of The Institute of Wellness and Advanced Aesthetics Ltd., 1608309 Alberta Ltd., and Mount Royal Surgical Centre Inc. (collectively, the "**Debtors**") pursuant to the Receivership Order granted on April 1, 2022 (the "**Receivership Order**"), in the within proceedings (the "**Proceedings**"); **AND UPON** reading the First Report of the Receiver, dated May 25, 2022 (the "**First Receiver's Report**"), filed; **AND UPON** reading the Affidavit of Service of Katie Doran, sworn on May •, 2022 (the "**Service Affidavit**"), filed; **AND UPON** hearing counsel for the Receiver and for any other parties who may be present;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. The time for service of the Application and the First Receiver's Report is abridged, the Application is properly returnable today, service of the Application and the First Receiver's Report on the service list, in the manner described in the Service Affidavit, is good and sufficient, and no other persons, other than those listed on the service list (the "**Service List**") attached as an exhibit to the Service Affidavit, are entitled to service of the Application or the First Receiver's Report.
2. Ms. Grace Yan and Vanovermeire Realty Inc. shall respond to inquiries made by the Receiver in respect of the Multiple Listing Service ("**MLS**") property identified as "123 Medical" with MLS listing number A1216384 within 24 hours of the Receiver making such inquiry.
3. Service of this Order shall be deemed good and sufficient by:
 - (a) Serving same on:
 - (i) the persons listed on the Service List created in these proceedings;
 - (ii) any other person served with notice of the Application for this Order;
 - (iii) any other parties attending or represented at the Application for this Order;and
 - (b) posting a copy of this Order on the Receiver's website at <https://www.alvarezandmarsal.com/IWAAL>and service on any other person is hereby dispensed with.
4. Service of this Order may be effected by facsimile, electronic mail, personal delivery, or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

Justice of the Court of Queen's Bench of Alberta