



Court of Appeal File No: Case File No. CA47072
Supreme Court File No: S-209201
Supreme Court Registry: Vancouver Registry

COURT OF APPEAL

BETWEEN:

MOUNTAIN EQUIPMENT CO-OPERATIVE
AND 1314625 ONTARIO LIMITED

Respondents
(Petitioners)

AND:

KEVIN HARDING ON HIS OWN BEHALF
AND ON BEHALF OF SAVE MEC

Appellant

NOTICE OF APPLICATION FOR LEAVE TO APPEAL

Take notice that Kevin Harding on his own behalf and on behalf of Save MEC hereby applies for leave to appeal to the Court of Appeal for British Columbia from the order of Madam Justice Fitzpatrick of the Supreme Court of British Columbia pronounced the 2nd day of October, 2020, at Vancouver, British Columbia.

1. The appeal is from a:

Trial Judgment Summary Trial Judgment

Order of a Statutory Body Chambers Judgment

2. If the appeal is from an appeal under Rule 18-3 or 23-6 (8) of the Supreme Court Civil Rules or Rule 18-3 or 22-7 (8) of the Supreme Court Family Rules, name the maker of the original decision, direction or order: N/A

3. Please identify which of the following is involved in the appeal:

Constitutional/Administrative Civil Procedure Commercial

Family Motor Vehicle Accidents Municipal Law

Real Property Torts Equity

[] Wills and Estates

And further take notice that the Court of Appeal will be moved at the hearing of this application for a declaration that the Order of the chambers judge was issued in error. For greater clarity, the Appellant does not seek to set aside the SAVO or delay the closing.

The grounds of appeal are:

1. The learned chambers judge erred in failing to properly assess the Charter protected activity of cooperative associations.
2. The learned chambers judge erred in failing to adequately address and remedy the oppressive conduct of the Petitioners' Board against the members.
3. The learned chambers judge erred in failing to adjourn the Petitioners' September 22, 2020 application seeking the approval of the asset purchase agreement and a vesting order.
4. The learned chambers judge erred in addressing the application of the *Cooperative Associations Act* within the CCAA proceedings.

The trial/hearing of this proceeding occupied 2.5 days.

Dated at Vancouver, British Columbia, this 23rd day of October, 2020.



Lawyer for the Appellant
Colin Gusikoski

To the Respondents: MOUNTAIN EQUIPMENT CO-OPERATIVE AND
1314625 ONTARIO LIMITED

And to their solicitors

THIS NOTICE OF LEAVE TO APPEAL is given by Colin Gusikoski of the firm Victory Square Law Office LLP, whose address for service is Suite 710 – 777 Hornby Street, Vancouver, BC V6Z 1S4 and whose email for service is cgusikoski@vslo.bc.ca.

To the respondent(s):

IF YOU INTEND TO PARTICIPATE in this proceeding, YOU MUST GIVE NOTICE of your intention by filing a form entitled “Notice of Appearance” (Form 2 of the Court of Appeal Rules) in a

Court of Appeal registry and serve the notice of appearance on the appellant WITHIN 10 DAYS of receiving this Notice of Application for Leave to Appeal.

IF YOU FAIL TO FILE A NOTICE OF APPEARANCE

- (a) you are deemed to take no position on the application, and
- (b) the parties are not obliged to serve you with any further documents related to the application.

The filing registries for the British Columbia Court of Appeal are as follows:

Central Registry:

B.C. Court of Appeal
Suite 400, 800 Hornby Street
Vancouver BC V6Z 2C5

Other Registries:

B.C. Court of Appeal
The Law Courts
P.O. Box 9248 STN PROV GOVT
850 Burdett Ave
Victoria BC V8W 1B4

B.C. Court of Appeal
223 – 455 Columbia Street
Kamloops BC V2C 6K4

Inquiries should be addressed to (604) 660-2468
Fax filings: (604) 660-1951