



FORM 32 (RULE 8-1 (4))

No. S-209201
Vancouver Registry

In the Supreme Court of British Columbia

Between

BC Co-op Association and Cooperatives and Mutuals
Canada

Applicant(s)

and

Mountain Equipment Co-operative

Respondent(s)

NOTICE OF APPLICATION

Name(s) of applicant(s):

To: (Respondent(s)) By telephone 1-403-703-9821 ehb@bridgerlaw.ca

TAKE NOTICE that an application will be made by the applicant(s) to the presiding judge or master at the courthouse at 800 Smithe Street, Vancouver, British Columbia V8Z2E1 on September 28, 2020 at 10:00 AM for the order(s) set out in Part 1 below.

PART 1: ORDER(S) SOUGHT

1. Leave of this Honourable Court for public interest intervenor status.
2. Direction from the court regarding the appropriate scope of intervention.
3. Immunity from costs.

PART 2: FACTUAL BASIS

1. The Applicants, BC Co-op Association and Cooperatives and Mutuals Canada are organizations with a broad public constituency representing the co-operative sector, and millions of British Columbians and Canadians that are Co-operative members.
2. The petition before the court engages unsettled issues of public law, such as the right of cooperative member-owners to participate in major decisions affecting their ownership in their Co-operatives according to provincial legislation, and constating documents of Co-operatives.
3. The public law issues include a potential constitutional issue regarding whether the BC Co-operative Associations Act is in conflict with the Companies' Creditors Arrangement Act.
4. The determination of this matter could have a major detrimental impact on the co-operative sector as a whole in the event federal legislation enables member rights under provincial cooperative legislation to be violated in situations in which a co-operative is going through a period of commercial illiquidity.
5. The BCCA and CMC can assist the court by providing a different and unique perspective from the parties on this matter with respect to the legal issues that impact the co-operative sector as a whole.

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SUPREME COURT SCHEDULING

6. The Applicant's intervention in this matter shall not unduly prejudice any of the parties.

PART 3: LEGAL BASIS

1. This Honourable Court has the inherent jurisdiction to grant public interest intervenor status. *Canadian Labour Congress v. Bhindi* (1985) 61 BCLR 85 (CA).

2. The test for granting public interest intervenor status requires consideration of three basic criteria:

- 1) the nature of the group seeking intervenor status
 - 2) the directness of the group's interest in the matter or the likelihood that it will bring a different perspective to the issue; and
 - 3) the suitability of the issue of the case at bar.
- College Institute Educators' Association et al v. HMTQ*, 2002 BCSC 1480

3. At the stage of seeking intervenor status it is necessary to satisfy the court that an intervenor will not simply advance arguments that are the same as the other parties. It is not necessary for the applicants to outline their arguments until the evidentiary base has been established by the parties. *Schoof v. Medical Services Commission*, 2009 BCSC 1596

4. Public Intervenor status has been granted to an association in matters dealing with constitutional issues of fairness and equity regarding rights and obligations provided in provincial legislation and their relationship to the insolvency settlement process of the CCAA.

PART 4: MATERIAL TO BE RELIED ON

The applicant(s) estimate(s) that the application will take: 10 minutes

This matter is not within the jurisdiction of a master.

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).

Date: 24/Sep/2020

[dd/mm/yyyy]

Elliot H. Bridgewater

Digitally signed by Elliot H.

Bridgewater

Date: 2020.09.24 14:30:37 -08'00'

Signature of

☐ Applicant

☒ Lawyer for applicant(s)

Elliot H. Bridgewater

[type or print name]

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs

of Part 1 of this notice of application

☐ with the following variations and additional terms:

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

add/change parties

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and **Mountain Equipment Co-operative** Respondent(s)

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☐ Applicant

☒ Lawyer for applicant(s)

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