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COURT: COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE: EDMONTON

PLAINTIFF: WELLS FARGO CAPITAL FINANCE CORPORATION
CANADA

DEFENDANTS: RAINY CREEK POWERSPORTS LTD., 2418381
ALBERTA LTD. O/A ALBERTA MARINE, 612578
ALBERTA LTD. O/A WESTERN RECREATIONAL
PRODUCTS, 2334499 ALBERTA LTD., 2418321
ALBERTA LTD., GORETZKI GROUP LTD., 2418379
ALBERTA LTD., 2338268 ALBERTA LTD.,
DARRELL JAMES GORETZKI, OMID NAZARI,
DILRAJ SINGH MARAHAR, JASMEEN KAUR
MARAHAR, AND KARANVEER SINGH MARAHAR

DOCUMENT: **WRITTEN BRIEF OF
BDO CANADA LIMITED –
SEPTEMBER 9, 2025, APPLICATION
BEFORE THE HONOURABLE
JUSTICE M. E. BURNS**

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF PARTY
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capacity as Receiver of 2418381 Alberta Ltd. and 612578 Alberta
Ltd.

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File No: 121927-5/BRC

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PART 1 INTRODUCTION

1. BDO Canada Limited (the “**Receiver**”) was appointed as the Receiver of all of the current and future assets, undertakings and properties, including all proceeds thereof, of 2418381 Alberta Ltd. (the “**Debtor**”), by Order pronounced July 17, 2025 (the “**Receivership Order**”).
2. The Receivership Order authorizes and empowers the Receiver to market and solicit offers in respect of the Defendants’ property or any part thereof with the approval of this Honourable Court, and to apply for any vesting order or other orders (including, without limitation, confidentiality or sealing orders) necessary to convey the same to a purchaser free and clear of any liens or encumbrances affecting such property.
3. The Receiver has marketed certain assets of the Debtor and sought auction proposals from various auctioneers to sell the assets of the Debtor.
4. The prospective auctioneer, McDougall Auctioneers Ltd. (“**McDougall**”) has made an offer to auction the assets of the Debtors, with the Receiver seeking to accept the Net Minimum Guarantee proposal of McDougall (the “**Auction Proposal**”).
5. The Receiver applies for the following relief:
 - (a) An Order abridging the time for service of notice of this Application and the First Report of the Receiver (the “**First Report**”) to the time provided, if necessary, and an Order validating service upon the parties served or, alternatively, dispensing with service;
 - (b) An Order approving the sales process, the activities and proposed go-forward activities of the Receiver, as set out in the First Report;
 - (c) An Order i) approving the Auction Proposal; ii) approving the Auction Assets, as described in Schedule “A” of the Order (the “**Auction Approval Order**”); iii) authorizing the Receiver, for and on behalf of the Debtors, to execute and deliver the whatever agreements are deemed necessary to conclude the auction contemplated thereby; and iv) vesting title to the assets of the Debtors in the Auction Purchasers, free and clear of all encumbrances;
 - (d) An Order, notwithstanding Division 4 of Part 6 of the *Alberta Rules of Court*, declaring that the Confidential Supplement to the First Report (the “**Confidential Appendices**”) be temporarily sealed until the closing of the proposed sale or until further order of the Court,

or, in the alternative, a temporary restricted Court access Order or Sealing Order pursuant to Rule 6.28 sealing the Confidential Supplement until the Receiver concludes the sale of the 191 Lands or until further Order of the Court;

- (e) An Order declaring that service of any order or orders arising from the Application by email, facsimile, registered mail, courier, regular mail, or personal delivery to the persons listed on the service list 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;
- (f) Such further and other relief as this Honorable Court deems just and appropriate.

PART 2 FACTS

- 6. The Receiver refers the Court to its First Report and Confidential Supplement to its First Report, which outline the facts underlying this application in detail, and further describes the Receiver's activities to date.

PART 3 ISSUES

- 7. The following issues are raised on this Application:
 - (a) Should this Honourable Court approve the Offer?
 - (b) Should this Honourable Court seal the Confidential Supplement?

PART 4 ARGUMENT

Should this Honourable Court approve the Auction Proposal?

- 8. Section 243 of the *Bankruptcy and Insolvency Act* permits the Court to appoint a Receiver to do any of the following:
 - (a) take possession of all or substantially all of the property of an insolvent person used in relation to the business carried on by the insolvent person;
 - (b) exercise any control that the Court considers advisable over the property and over the insolvent person's business; and
 - (c) take any other action that the Court considers advisable.

Bankruptcy and Insolvency Act, RSC 1985, c B-3, s. 243(1) [**“BIA”**] [TAB 1]

9. Section 247(b) of the *BIA* provides that a Receiver shall “act honestly and in good faith” and “deal with the property of the insolvent person or the bankrupt in a commercially reasonable manner.”

BIA, s. 247 [TAB 1]

10. *Royal Bank v. Soundair Corp.* enumerates the well-known criteria to be applied when considering the approval of a sale or the sales process of a Receiver. When considering whether an offer should be approved and ratified by the Court, the Court is to consider and determine:

- (a) Whether the Receiver made sufficient effort to get the best price and has not acted improvidently;
- (b) The interests of all the parties;
- (c) The efficacy and integrity of the process by which offers were obtained; and
- (d) Whether there has been unfairness in the working out of the process.

Royal Bank v. Soundair Corp., 1991 CarswellOnt 205 at para 16 (**“Soundair”**) [TAB 2].

11. *Soundair* has been cited with approval by the Alberta Court of Appeal in multiple instances.

River Rentals Group Ltd. v Hutterian Brethren Church of Codesa, 2010 ABCA 16 at para 12 (**“River Rentals”**) [TAB 3] &

Carlson v Carlson, 2012 ABCA 173 at para. 22 [TAB 4] &

PricewaterhouseCoopers Inc. v. 1905393 Alberta Ltd., 2019 ABCA 433 at para 10 (**“PwC”**) [TAB 5].

12. If the Court is satisfied that a Receiver has acted providently in its efforts to sell assets, the proposed transaction should be approved. Deference is owed to the Court-appointed Receiver, provided that its course of action and recommendation is appropriate and nothing to the contrary is shown in the evidence. To order otherwise calls into question the Receiver's expertise and authority in the receivership process, thereby compromising both the integrity of the sales process, and undermining commercial certainty. That said, “[i]t is most important that the integrity of procedures followed by court-appointed receivers be protected in the interests of both commercial morality and the future confidence of business-persons in their dealings with receivers. Consequently, in all

cases, the court should carefully scrutinize the procedure followed by the receiver to determine whether it satisfies the” *Soundair* principles.

Soundair at para 14, 43 and 72 [TAB 2] &

River Rentals at paras 18 and 19 [TAB 3] &

PwC at paras 10, and 12-14 [TAB 5].

13. In considering the first prong of the *Soundair* test, the Court is to consider the following factors:
- (a) Whether the offer accepted is so low in relation to the appraised value as to be unrealistic;
 - (b) Whether the circumstances indicate that insufficient time was allowed for the making of bids;
 - (c) Whether inadequate notice of sale by bid was given; and
 - (d) Whether it can be said that the proposed sale is not in the best interest of either the creditors or the owner.

River Rentals at para. 13 [TAB 3]

PwC at paras. 11-12 [TAB 5].

14. It is the reviewing Court’s function to ensure that these duties have been complied with, “not to consider whether a Receiver has failed to get the best price”.

PwC at para. 13 [TAB 5].

15. As will be shown, the Receiver’s proposed sale falls well within these requirements.

Has the Receiver has made sufficient efforts to get the best price and has not acted improvidently?

16. The receiver’s role in a liquidation of assets is clear and well defined. Its obligation is to make a sufficient effort to obtain the highest possible sale price for the assets.

Uti Energy Corp. v. Fracmaster Ltd., 1999 ABCA 178 at para 32 [TAB 6]

17. As discussed in the First Report, the Receiver has obtained multiple auction proposals from numerous auctioneers for the assets of the Debtors. A copy of these auction proposals has been provided to the court on a confidential basis in the Confidential Supplement.

First Report, paras 74-75 & 79-81 [**Not Attached**]
Confidential Supplement to Receiver's First Report ("**Confidential Supplement**"),
paras. 10-14, 16-18 & Appendix A [**Not Attached**]

18. It is submitted that the Receiver has taken steps to obtain fair price for the assets by:
- a) Canvassing a significant number of prospective auctioneers;
 - b) Retaining an experienced auctioneer to market the assets of the Debtors; and
 - c) Obtaining numerous auction proposals, kept confidential and provided to the court in the Confidential Supplement to the First Report, which speak to the value of the assets on offer.

First Report, paras 74-75 & 79-81 [**Not Attached**]
Confidential Supplement, paras. 10-14 [**Not Attached**]

19. The Auction Proposal provides for a comprehensive advertising scheme which will result in the assets being advertised sufficiently in different media and within enough time to give prospective auction purchasers an opportunity to participate is suggestive of fair value to be received.

Frank Bennett, *Bennett on Receiverships*, 4th ed
(Toronto, On: Thomson Reuters), at pgs 431-432 [**TAB 7**]
Confidential Supplement, Appendix A [**Not Attached**]

20. In this instance, the assets of the Debtors are not overly specialized, being various power sports chattels, and would be best marketed through an auction process.
21. The Receiver has undertaken a thorough process of obtaining proposals from potential auctioneers and has received a sufficient offer to auction the Debtors assets.

First Report at paras. 74-75 & 79-81 [**Not Attached**]
Confidential Supplement, paras. 10-14 & 16-18 [**Not Attached**]

22. The assets were valuated and the auction proposal the Receiver wishes to accept is fair and reasonable in the Receiver's opinion when considering the effect on all stakeholders, valuation information, and response of the market to the marketing process.
23. The receiver submits that the auction proposal is fair and the best price has been received in a reasonable marketing process. Further, it is submitted that, with proper efforts having been made to get auction proposal, and no other good reason to reject an the auction proposal, the court should approve the auction proposal as recommended.
24. It is respectfully submitted that the courts should show deference to business decisions made by those entrusted by the creditors and authorized to make such decisions for the benefit of the estate.

Fantasy Construction Ltd., Re, 2006 ABQB 357 at para 12 citing Hoque, Re [Tab 8]

Have The Interests of Stakeholders Been Considered?

25. It is the receiver's submission that the Auction Proposal received for the Debtors assets, is in the interest of all stakeholders.
26. As stated in the Receivers' Report:
 - a) The receiver has actively considered the interests of the stakeholders;

First Report at paras 78-79 [Not Attached]
 - b) The secured creditor, Wells Fargo, supports the Auction Proposal that the Receiver wishes to accept.

First Report at para 81 [Not Attached]
27. Further, continuing to market the Debtor's assets will continue to incur avoidable holding costs and expense should this sale not proceed.

The Efficacy and Integrity of the Process

28. As found in *Soundair*, the court should use caution before interfering with the commercial judgment of a receiver tasked to sell assets on behalf of the court.

Soundair at para 16, [TAB 2]

29. The Receiver has acted with diligence and provided consistent information to all interested parties, worked with the management of the Debtor to protect the Debtor's assets and their value, protected the proposal process, and accommodated proponents schedules to view assets.

First Report at paras 18, 74-75 & 79-81 [Not Attached]

30. The Receiver submits that the process is prudent and reasonable in the circumstances and has resulted in fair value for the assets to be sold to the purchaser.

Has There Been Unfairness in the Process?

31. As stated in *Soundair*:

As a general rule, I do not think it appropriate for the court to go into the minutia of the process or of the selling strategy adopted by the receiver. However, the court has a responsibility to decide whether the process was fair.

Soundair at para. 49 [TAB 2]

32. There has been no suggestion that the Receiver has failed to act reasonably, prudently and fairly in carrying out its duties and in seeking to accept the Auction Proposal.
33. Further, no party will be materially prejudiced or disadvantaged by the Receiver entering into the Auction Proposal for the assets of the Debtors.
34. The Receiver submits that the process used to obtain the Auction Proposal was fair and reasonable and the Auction Proposal recommended, contained in the Confidential Supplement, should be accepted by the court as the Receiver has acted reasonably, prudently, fairly and not arbitrarily.

Confidential Supplement, paras. 16-17 & Appendix A [Not Attached]

Should this Honourable Court seal the Confidential Supplement?

35. The Court's authority to grant a sealing order is contemplated pursuant to Rule 6.28 and Division 4 of Part 6 of the *Alberta Rules of Court*.

Alberta Rules of Court, AR 124/2010, Division 4 of Part 6 including Rule 6.28 [TAB 9]

36. The common law test for determining whether a sealing order should be granted is set out in *Sierra Club of Canada v Canada (Minister of Finance)*. In that case, Justice Iacobucci held that a sealing order should only be granted when:
- (a) Where it is necessary in order to prevent a serious risk to an important interest, including a commercial interest, in the context of litigation because reasonably alternative measures will not prevent that risk; and
 - (b) Where the salutary effects of the confidentiality order outweigh its deleterious effects, including the effects on the right to free expression, which includes public interest in open and accessible court proceedings.

Sierra Club of Canada v Canada (Minister of Finance), 2002 SCC 41 at para 45
[TAB 10].

37. More recently, in *Sherman Estate v Donovan*, the Supreme Court of Canada affirmed the essence of the test set out in *Sierra Club*, and rearticulated it, providing that an applicant seeking a sealing order must establish that:
- (a) court openness poses a serious risk to an important public interest;
 - (b) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and
 - (c) as a matter of proportionality, the benefits of the order outweigh its negative effects.

Sherman Estate v Donovan, 2021 SCC 41 at para 38 [TAB 11].

38. In its recent decision in *Yukon (Government of) v Yukon Zinc Corporation*, the Yukon Supreme Court held that, in the insolvency context, it is standard practice to keep all aspects of the bidding confidential and that Courts have found that going so appropriately satisfies the *Sierra Club* test, as modified by *Sherman Estate*. The Court found that sealing this information ensures the integrity of the sales and marketing process, and avoids the misuse of information by bidders in a subsequent process to obtain an unfair advantage.

Yukon (Government of) v. Yukon Zinc Corporation, 2022 YKSC 2 at para. 39
("Yukon") [TAB 12]

39. The Receiver submits that there is an important public interest in temporarily sealing the Confidential Supplement until the close of the Transaction contemplated in the Sale and Purchase

Agreement. The public interest is to facilitate one of the main purposes of the receivership which is to preserve value for the benefit of creditors.

Third Eye Capital Corporation v Ressources Dianor Inc/Dianor Resources Inc., 2019 ONCA 508
at para. 73 [TAB 13]

40. The Receiver further submits that salutary effects of a Sealing Order of the Confidential Supplement outweigh any potential deleterious effects and is necessary towards assisting the Receiver in keeping with the *Soundair* principles. The contain commercially sensitive information, the disclosure of which may jeopardize the closing of the transaction contemplated in the Sale and Purchase Agreement to the detriment of the creditors of 191 Alberta and there are no reasonable alternative measures that can prevent this risk. It is also necessary to protect commercially sensitive information that could negatively impact both 191 Alberta and the stakeholders if this transaction is not completed and further efforts to sell the property must be undertaken. Not only is the granting of the Order reasonable in the circumstances it is, in the Receiver's submission, appropriate and necessary.

PART 5 CONCLUSION

41. The Receiver respectfully requests that this Honourable Court grant the relief sought on this Application.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 29th day of August, 2025.

Per: _____

Witten LLP

Bren R. Cargill
Solicitors for BDO Canada
Limited

TABLE OF AUTHORITIES

TAB	Citation
1.	<u><i>Bankruptcy and Insolvency Act</i>, RSC 1985, c B-3</u>
2.	<u><i>Royal Bank v. Soundair Corp.</i>, 1991 CarswellOnt 205</u>
3.	<u><i>River Rentals Group Ltd. v Hutterian Brethren Church of Codesa</i>, 2010 ABCA 16</u>
4.	<u><i>Carlson v Carlson</i>, 2012 ABCA 173</u>
5.	<u><i>PricewaterhouseCoopers Inc. v. 1905393 Alberta Ltd.</i>, 2019 ABCA 433</u>
6.	<u><i>Uti Energy Corp. v Fracmaster Ltd.</i>, 1999 ABCA 178</u>
7.	<i>Bennett on Receiverships</i> , Frank Bennett, 4 th ed. (Toronto, ON: Thomson Reuters)
8.	<u><i>Fantasy Construction Ltd., Re</i>, 2006 ABQB 357</u>
9.	<i>Alberta Rules of Court</i> , AR 124/2010, Division 4 of Part 6
10.	<u><i>Sierra Club of Canada v Canada (Minister of Finance)</i>, 2002 SCC 41</u>
11.	<u><i>Sherman Estate v Donovan</i>, 2021 SCC 25</u>
12.	<u><i>Yukon (Government of) v. Yukon Zinc Corporation</i>, 2022 YKSC 2</u>
13.	<u><i>Third Eye Capital Corporation v Ressources Dianor Inc./Dianor Resources Inc.</i>, 2019 ONCA 508</u>

In assessing whether the receiver's market plan or sales process is reasonable, the court reviews:

- (a) is a sale transaction warranted at this time?
- (b) will the sale benefit the whole "economic community"?
- (c) do any of the debtors' creditors have a *bona fide* reason to object to a sale of the business?
- (d) is there a better viable alternative?¹⁸²

With respect to the second aspect, the court should examine the conduct of the receiver in light of the information the receiver had when it agreed to accept an offer. The time to assess whether the receiver acted providently is the time that the receiver enters into an agreement of purchase and sale. The court should be very cautious before deciding that the receiver's conduct was improvident based upon information which has come to light after it made its decision.¹⁸³ The market place is the best evidence of the fair market value of the debtor's property.¹⁸⁴

See also *Jeanette B.B.Q. Ltée v. Caisse Populaire Tracadie Ltée* (1989), 100 N.B.R. (2d) 374, 77 C.B.R. (N.S.) 319, 1989 CarswellNB 570 (N.B. Q.B.) where the court suggested that the receiver should ordinarily obtain an appraisal of the property or engage trained professionals to assist in the sale. In this case, the court considered that the receiver failed to take reasonable care to obtain true market value. The court considered the amount realized compared to an appraised value of one year earlier, the limited market of advertisements, the number of advertisements, the receiver's inexperience, and the failure to obtain a current appraisal and other expert assistance. Damages were reduced on appeal: *Jeanette B.B.Q. Ltée v. Caisse populaire de Tracadie Ltée* (1991), 117 N.B.R. (2d) 129, 82 D.L.R. (4th) 548, 1991 CarswellNB 389 (N.B. C.A.), leave to appeal refused [1992] 1 S.C.R. viii (note), 86 D.L.R. (4th) viii (note) (S.C.C.).

To avoid criticism of the method and manner of sale in larger receiverships, the receiver should first obtain an order authorizing the marketing plan: *Yukon v. United Keno Hill Mines Ltd.* (2004), 6 C.B.R. (6th) 153, 2004 CarswellYukon 101, 2004 YKSC 59 (Y.T. S.C.).

In *Azura Management (Hemlock) Corp. v. Hemlock Valley Resorts Inc.* (2006), 22 C.B.R. (5th) 60, 2006 CarswellBC 1264, 2006 BCSC 824 (B.C. Master), the court concluded on a motion to approve the sale of a ski resort that the receiver did not give sufficient time to the marketing of the assets and that the proposed sale price was only in the best interests of the purchaser and not in the best interests of the creditors.

See *Bank of Montreal v. Calgary West Hospitality Inc.* (2011), 2011 ABQB 293 at para. 35, 2011 CarswellAlta 698 (Alta. Q.B.): "Where, as here, the asset is an unusual one [a cause of action against a third party], the court should be open to creative processes to maximize recovery for the estate. In ascertaining whether a suggested process is appropriate, the court's concern (as on an application to approve a sale completed by a receiver) should be whether the process is reliable, transparent, efficient, fair and one which guards the parties' interests".

¹⁸² *Nortel Networks Corp.* (2009), 2009 ONSC 39492, 55 C.B.R. (5th) 229 (Ont. S.C.J. [Commercial List]); followed in *Schembri v. Way*, 2011 ONSC 4021 (Ont. S.C.J.) at para. 36. For related proceedings on the appointment of a receiver and an order requiring the defendants to produce all financial documents, see *Schembri v. Way*, 2010 ONSC 5176 (Ont. S.C.J.).

¹⁸³ *Royal Bank v. Soundair Corp.* (1991), 4 O.R. (3d) 1 at p. 7, 7 C.B.R. (3d) 1, 83 D.L.R. (4th) 76 (Ont. C.A.).

¹⁸⁴ *Bancorp Income Mortgage Fund Ltd. v. Central Manor Holdings Ltd.*, 2011 BCSC 126 (B.C. S.C.).

The court reviews the length of time a property has been on the market. This factor often indicates whether the receiver has received an appropriate offer to purchase. If the property has been exposed to the market place for a significant time, the receiver can rely less on appraisals as the market place is in the end the best test for the sale price.¹⁸⁵

In determining whether the receiver acted improvidently or failed to get the best price, the court reviews the following additional factors:

- (a) whether the offer accepted is so low in relation to the appraised value as to be unrealistic;
- (b) whether the circumstances indicate that insufficient time was allowed for the making of bids;
- (c) whether inadequate notice of sale by bid was given; and
- (d) whether it can be said that the proposed sale is not in the best interests of either the creditor or the owner.¹⁸⁶

If the receiver's recommendation is challenged, the court should have evidence of other offers that are significantly or substantially higher before it can adjudicate on this point. The court should readily accept the receiver's recommendation on the motion for court approval and reject the receiver's recommendation only in the exceptional cases since it would weaken the role and function of the receiver. The receiver deserves respect and deference.¹⁸⁷

As stated in *Crown Trust Co. v. Rosenberg*:

...The court ought not to sit as on appeal from the decision of the Receiver, reviewing in minute detail every element of the process by which the decision is reached. To do so would be a futile and duplicitous exercise. The court ought not to embark on a process analogous to the trial of a claim by an unsuccessful bidder for something in the nature of specific performance. The court should not proceed against the recommendations of its Receiver except in special circumstances and where the necessity and propriety of doing so are plain. Any other rule or approach

¹⁸⁵ *Romspen Mortgage Corp. v. Lantzville Foothills Estates Inc.* 2013 BCSC 2222, (2013), 12 C.B.R. (6th) 282 where the court approved a sale despite the fact that the receiver had a substantially higher but conditional offer.

¹⁸⁶ *Bank of Montreal v River Rentals Group Ltd*, 2010 ABCA 16 at para 13, 469 AR 333 (Alta. C.A.), also reported as *River Rentals Group Ltd. v. Hutterian Brethren Church of Codesa*, citing both the *Salima* case and *Cameron v. Bank of Nova Scotia* (1981), 45 N.S.R. (2d) 303, 38 C.B.R. (N.S.) 1, 1981 CarswellNS 47 (N.S. C.A.).

¹⁸⁷ *Crown Trust Co. v. Rosenberg* (1986), 60 O.R. (2d) 87 at p. 112, 39 D.L.R. (4th) 526, 1986 CarswellOnt 235 (Ont. H.C.); *Integrated Bldg. Corp. v. Bank of Nova Scotia* (1989), 71 Alta. L.R. (2d) 320, 75 C.B.R. (N.S.) 158, 1989 CarswellAlta 347 (Alta. C.A.); *Re Anvil Range Mining Corp.* (1998), 7 C.B.R. (4th) 51, 1998 CarswellOnt 5319 (Ont. Gen. Div. [Commercial List]); *Re Fracmaster Ltd.* (1999), 11 C.B.R. (4th) 230, 1999 CarswellAlta 539, 1999 ABCA 178 (Alta. C.A.); *Skyepharma PLC v. Hyal Pharmaceutical Corp.* (1999), 12 C.B.R. (4th) 87 (Ont. S.C.J.) paras 4 and 7 — the test is that the court's function is not to consider whether a receiver has failed to get the best price, but rather a receiver's duty is to act in a commercially reasonable manner in the circumstances with a view to obtaining the best price having regard to the competing interests of the interested parties; affirmed on appeal *Skyepharma PLC v. Hyal Pharmaceutical Corp.* (2000), 15 C.B.R. (4th) 298 (Ont. C.A.).



ALBERTA

RULES OF COURT

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Division 4

Restriction on Media Reporting and Public Access to Court Proceedings

Application of this Division

6.28 Unless an enactment otherwise provides or the Court otherwise orders, this Division applies to an application for an order

- (a) to ban publication of court proceedings,
- (b) to seal or partially seal a court file,
- (c) permitting a person to give evidence in a way that prevents that person or another person from being identified,
- (d) for a hearing from which the public is excluded, or
- (e) for use of a pseudonym.

Restricted court access applications and orders

6.29 An application under this Division is to be known as a restricted court access application and an order made under this Division is to be known as a restricted court access order.

When restricted court access application may be filed

6.30 A person may file a restricted court access application only if the Court has authority to make a restricted court access order under an enactment or at common law.

AR 124/2010 s6.30;194/2020

Timing of application and service

6.31 An applicant for a restricted court access order must, 5 days or more before the date scheduled for the hearing, trial or proceeding in respect of which the order is sought,

- (a) file the application in Form 32, and
- (b) unless the Court otherwise orders, serve every party and any other person named or described by the Court.

Notice to media

6.32 When a restricted court access application is filed, a copy of it must be served on the court clerk, who must, in accordance with the direction of the Chief Justice, give notice of the application to

- (a) the electronic and print media identified or described by the Chief Justice, and
- (b) any other person named by the Court.

AR 124/2010 s6.32;163/2010

Judge or applications judge assigned to application

6.33 A restricted court access application must be heard and decided by

- (a) the judge or applications judge assigned to hear the application, trial or other proceeding in respect of which the restricted court access order is sought,
- (b) if the assigned judge or applications judge is not available or no judge or applications judge has been assigned, the case management judge for the action, or
- (c) if there is no judge or applications judge available to hear the application as set out in clause (a) or (b), the Chief Justice or a judge designated for the purpose by the Chief Justice.

AR 124/2010 s6.33;194/2020;136/2022

Application to seal or unseal court files

6.34(1) An application to seal an entire court file or an application to set aside all or any part of an order to seal a court file must be filed.

- (2) The application must be made to
 - (a) the Chief Justice, or
 - (b) a judge designated to hear applications under subrule (1) by the Chief Justice.
- (3) The Court may direct
 - (a) on whom the application must be served and when,
 - (b) how the application is to be served, and
 - (c) any other matter that the circumstances require.

Persons having standing at application

6.35 The following persons have standing to be heard when a restricted court access application is considered

- (a) a person who was served or given notice of the application;
- (b) any other person recognized by the Court who claims to have an interest in the application, trial or proceeding and whom the Court permits to be heard.

No publication pending application

6.36 Information that is the subject of the initial restricted court access application must not be published without the Court's permission.