

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERICAL LIST)**

Estate/Court File No. 31-2363758

Estate/Court File No. 31-2363759

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
JONES CANADA, INC., A CORPORATION WITH A HEAD OFFICE IN THE CITY OF
TORONTO IN THE PROVINCE OF ONTARIO, AND NINE WEST CANADA LP, A
PARTNERSHIP WITH A HEAD OFFICE IN THE CITY OF TORONTO IN THE
PROVINCE OF ONTARIO**

Applicants

**FACTUM OF THE APPLICANTS
(Extension of Proposal Period)**

July 30, 2018

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Applicants

PART I - INTRODUCTION

1. The Applicants bring this motion seeking order (the “**Extension Order**”), substantially in the form of the draft order located at tab 3 of the Motion Record, among other things, extending the time for each of the Applicants to file a proposal (the “**Proposal Period**”) under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) to September 17, 2018.

PART II - THE FACTS¹

A. Background

2. Nine West Canada LP (“**NW Canada LP**”) and Jones Canada, Inc. (“**Jones Canada**”, and together with NW Canada LP, the “**NW Canada Entities**”) were wholesalers and retailers of Nine West brand footwear and accessories in Canada. The NW Canada Entities were also the exclusive wholesalers of various brands of women’s apparel, jewellery, handbags and women’s footwear in Canada. The NW Canada Entities are indirect wholly-owned subsidiaries of U.S. parent companies whose ultimate parent is Jasper Parent LLC (the “**NW U.S. Entities**”, and, collectively with the NW Canada Entities, the “**NW Entities**”).

¹ All capitalized terms not otherwise defined herein are defined in the Affidavit of Ralph Schipani sworn July 26, 2018.

Affidavit of Ralph Schipani sworn July 26, 2018 (the "Schipani Affidavit") at para. 4; Motion Record of the Applicants, Tab 2.

3. On April 6, 2018, restructuring proceedings were commenced in respect of the NW Canada Entities and the Nine West U.S. Entities. Each of the NW Canada Entities filed a Notice of Intention to File a Proposal ("NOI") under the BIA (the "**Proposal Proceedings**"). The NOI filings were necessary to provide stability to the NW Canada Entities and permit the implementation of the proposed liquidation, which is now nearly completed and which is further described below. As part of the filing of the NOIs, Richter was named as the Proposal Trustee in the Proposal Proceedings. The NW U.S. Entities filed for protection under Chapter 11 of the U.S. Bankruptcy Code (the "**Chapter 11 Proceedings**").

4. The Proposal Proceedings and the Chapter 11 Proceedings are independent processes. The NW Canada Entities are neither borrowers nor guarantors of the debt of the NW U.S. Entities, and are not borrowers under the U.S. debtor-in-possession facility in the Chapter 11 Proceedings. The NW Canada Entities are not applicants in the Chapter 11 Proceedings, and no recognition orders are being sought in Canada with respect to the Chapter 11 Proceedings. Similarly, no relief was sought in respect of the NW Canada Entities in the U.S.

Schipani Affidavit at paras. 7- 8; Motion Record of the Applicants, Tab 2.

5. Prior to the commencement of the Chapter 11 Proceedings, the NW U.S. Entities undertook a comprehensive marketing process of their Nine West and Bandolino brands to potential strategic and financial buyers. These efforts did not generate any interest in the NW Canada Entities' assets but resulted in an asset purchase agreement dated April 5, 2018 between certain of the NW U.S. Entities and certain entities affiliated with Authentic Brands Group LLC ("**ABG**") and Marc Fisher as operating partner (the "**Stalking Horse APA**") which committed those entities to pay USD\$123 million for the intellectual property associated with the Nine West and Bandolino brands and USD \$77 million for inventory. The Stalking Horse APA set a minimum price for the sale of the purchased assets, ensured the continued viability of the Nine West brand to consumers, and allowed the NW U.S. Entities to leave the footwear business.

6. On May 5, 2018, the United States Bankruptcy Court for the District of Delaware (the "**US Court**") approved bidding procedures in the Chapter 11 Proceedings with respect to the

assets of the Nine West, Bandolino, and associated brands. The bidding procedures set a bid deadline of June 4, 2018, provided for an auction, if necessary, to be conducted on June 8, 2018, and contemplated a sale hearing on June 18, 2018. The NW U.S. Entities received one bid prior to the bid deadline, which was submitted by shoe retailer DSW Inc. Following an auction, ABG was determined to be the successful bidder. The sale of the NW U.S. Entities' assets to ABG closed on July 3, 2018.

7. On April 11, 2018, Justice Hainey granted an order (the "**Administration Order**"), which, among other things, approved the substantive consolidation of the Proposal Proceedings and authorized the Proposal Trustee to administer the consolidated Proposal Proceedings as if they were a single proceeding for the purpose of carrying out its duties and responsibilities as a proposal trustee under the BIA with respect to the administration of proposal proceedings generally. On June 19, 2018, Justice Hainey granted an order extending the Proposal Period to August 3, 2018.

Schipani Affidavit at paras. 11-12; Motion Record of the Applicants, Tab 2.

B. Status of the Liquidations and Store Closures

8. On April 11, 2018, Justice Hainey granted an order (the "**Liquidation Process Order**"), which, among other things, approved sale guidelines governing the conduct of liquidations in the retail locations, and approved a consulting agreement setting out the terms of the engagement of a consultant to assist the NW Canada Entities in carrying out the liquidation (the "**Consulting Agreement**"). The Consulting Agreement was executed on April 11, 2018, following the issuance of the Liquidation Process Order. Liquidation sales commenced on April 14, 2018, and were completed by June 30, 2018 (the "**Liquidation Sales**"). All retail locations have now been vacated.

Schipani Affidavit at para. 13, Motion Record of the Applicants, Tab 2

9. The majority of the NW Canada Entities' wholesale inventory was sold through the NW Canada Entities' customary wholesale channels, and the remainder was included in the Liquidation Sales at the retail locations.

10. Net recoveries from the Liquidation Sales have exceeded projections. Additional information regarding the Liquidation Sales is included in the Third Report of the Proposal Trustee dated July 27, 2018, filed in connection with the within motion (the "Third Report").

Schipani Affidavit at paras. 14-15; Motion Record of the Applicants, Tab 2.

Third Report at paras. 18-21, 28.

11. The Consulting Agreement contemplates a final settlement with respect to the reimbursable costs and fees of the Consultant (as defined in the Consulting Agreement), which fees represent a percentage of the gross proceeds from the sale of inventory and the gross receipts from all sales or other dispositions of fixtures, furniture and equipment. The NW Canadian Entities have reviewed and approved the Consultant's final settlement and the recovery of the NW Canadian Entities' deposit, net of any amounts owed to the Consultant, is anticipated prior to the end of July 2018.

Schipani Affidavit at para. 16; Motion Record of the Applicants, Tab 2.

Store Closures and Lease Disclaimers

12. At the commencement of the Proposal Proceedings, the NW Canada Entities operated 35 retail locations across Canada, of which 22 were located in Ontario. Since the commencement of the Liquidation Sales at the NW Canada Entities' retail locations, lease disclaimer notices have been delivered (as necessary) with respect to all 35 retail locations, effective on or before June 30, 2018. The NW Canada Entities remitted any remaining payments in respect of post-filing store lease obligations in July 2018.

13. The NW Canada Entities operate a corporate head office located in Toronto, Ontario. As part of their orderly windup, the NW Canada Entities determined that they would continue to require a portion of their head office space until later in the Proposal Proceedings. The lease disclaimer notice with respect to the head office was delivered on July 12, 2018, and is effective on August 11, 2018.

14. As of July 26, 2018, no counterparty to a disclaimed lease or a terminated lease has disputed the NW Canada Entities' disclaimer or termination of the relevant lease.

Schipani Affidavit at paras. 17-21; Motion Record of the Applicants, Tab 2.

Employee Terminations

15. At the commencement of the Proposal Proceedings, NW Canada LP employed approximately 330 people, of which 225 were employed on a part-time basis, and all of whom were non-unionized. Of NW Canada LP's employees, approximately 35 made up senior management and administrative office positions and 295 were retail sales staff.

16. As the Liquidation Sales progressed, the NW Canada Entities sent notices of termination to all retail and head office employees. With the exception of seven head office employees who were necessary to assist in concluding the orderly wind down of operations, the employment of all retail and head office employees was terminated on or before June 30, 2018.² As of July 26, 2018, the NW Canada Entities have sent notices of termination to the seven head office employees who are assisting with the wind down of operations, effective on or before August 17, 2018.

17. All employees whose employment was terminated were paid their wages, benefits and accrued vacation to the date of termination. Terminated employees may have claims for severance in accordance with the requirements under the relevant provincial employment standards legislation and common law.

Schipani Affidavit at paras. 22-24; Motion Record of the Applicants, Tab 2.

Contract Disclaimers

18. As of July 26, 2018, the NW Canada Entities have disclaimed nearly all of the contracts to which they were a party (the "**Disclaimed Contracts**") pursuant to the BIA. Disclaimer notices, consisting of a Form 44.1 *Notice by Debtor to Disclaim or Resiliate an Agreement* and an explanatory cover letter, were sent to the counterparties of the Disclaimed Contracts between the end of April and the middle of July 2018. A few contract counterparties are holding deposits, which the NW Canada Entities are working on recovering in conjunction with the Proposal Trustee.

² In addition to the 7 head office employees, there is one employee of Jasper Apparel Group Canada, LP, who is currently on NW Canada LP's payroll and is currently being moved to an alternate employer.

19. The NW Canada Entities made use of a distribution centre in Toronto, which is owned and operated by a third party logistics provider. The NW Canada Entities disclaimed the contract with respect to the third party distribution centre and vacated the distribution centre at the end of June 2018.

20. The Proposal Trustee approved the disclaimer of the Disclaimed Contracts. As of July 26, 2018, no counterparty to a Disclaimed Contract has disputed the NW Canada Entities' disclaimers. The NW Canada Entities anticipate delivering the few remaining disclaimers as they complete the wind down of their operations.

Schipani Affidavit at paras. 28-32; Motion Record of the Applicants, Tab 2.

Remaining Assets

21. As of July 26, 2018, the NW Canada Entities have liquidated nearly all of their assets. The NW Canada Entities, under the supervision of the Proposal Trustee, are in discussions about the potential sale of the few remaining assets the value of which has not yet been ascertained. The NW Canada Entities will update the Court on the outcome of these discussions and what, if any, value can be obtained from their sale.

Schipani Affidavit at para. 33; Motion Record of the Applicants, Tab 2.

C. Proposal

22. The NW Canada Entities have prepared a draft form of proposal to their creditors based on the available proceeds and asset monetization achieved following the completion of the Liquidation Sales. The proposal includes a quantification of the claims of various creditors, including landlords and employees.

23. The NW Canada Entities engaged in discussions with their largest stakeholder, the NW U.S. Entities, regarding the quantification of the NW U.S. Entities' secured and unsecured claims and the terms of the NW Canada Entities' proposal, including treatment of related claims and structuring the proposal in a tax efficient manner. The discussions did not progress as quickly as anticipated, in part, due to the NW U.S. Entities' own insolvency proceedings and the closing of the sale transaction with respect to the NW U.S. Entities' assets. The NW U.S. Entities

are currently considering the tax and other consequences of the NW Canada Entities' draft proposal.

Schipani Affidavit at paras. 35-36; Motion Record of the Applicants, Tab 2.

D. Updated Cashflow

24. In connection with the NW Canada Entities' motion to extend the Proposal Period to September 17, 2018, the Proposal Trustee assisted the NW Canada Entities in preparing a report on action versus forecast results for the thirteen weeks ended July 14, 2018, and an extended cash flow forecast (the "Extended Cash Flow Forecast") for the ten week period from July 15, 2018 to September 22, 2018 (the "Extended Cash Flow Period"), copies of which are appended to the Third Report of the Proposal Trustee.

25. As set out in the Extended Cash Flow Forecast, the NW Canada Entities are expected to have sufficient liquidity to operate to the end of the Extended Cash Flow Period, which coincides with the extension of the Proposal Proceedings to September 17, 2018. The NW Canada Entities' principal use of cash following the commencement of the Proposal Proceedings to the completion of the Liquidation Sales consisted of regular course operating expenditures, including amounts paid or to be paid to employees and landlords. These expenditures decreased over time as store closures were effected. The NW Canada Entities' principal use of cash through to September 17, 2018 will be expenses in connection with winding down their operations, reconciliation and payment of post filing expenses and preparing a proposal to present to their creditors.

Schipani Affidavit at paras. 37-39; Motion Record of the Applicants, Tab 2; Extended Cash Flow Forecast, Third Report, Appendix D.

PART III - ISSUES

26. The issues on this motion are whether Court should extend the Proposal Period to September 17, 2018.

PART IV - LAW AND ARGUMENT

The Extension of the Proposal Proceedings should be Approved

27. Since April 14, 2018, the NW Canada Entities, the Consultant, the Proposal Trustee and their advisors have been working together to carry out the Liquidation Sales, address employee, supplier, customer and other stakeholder issues, and otherwise advance the Proposal Proceedings. The Liquidation Sales were completed on June 30, 2018 and the NW Canada Entities have vacated all of their retail locations.

28. A 45-day extension of the Proposal Period would give the NW Canada Entities the time needed to: conclude their efforts to monetize their remaining assets and recovery of remaining receivables, continue discussions with their largest stakeholders regarding limiting the claims pool to maximize recovery and structuring their proposal in a tax efficient manner, and to complete their proposal for consideration of the NW Canada Entities' creditors. The NW Canada Entities' anticipate being in a position to file a proposal in advance of the expiration of the proposed extension of the Proposal Proceedings to September 17, 2018.

Schipani Affidavit at paras. 40-41, Motion Record of the Applicants, Tab 2.

29. This Court has authority to grant the requested extension under section 50.4(9) of the BIA, which states that such an extension may be granted where the Court is satisfied that:

- (a) the insolvent person has acted, and is acting, in good faith and with due diligence;
- (a) the insolvent person would likely be able to make a viable proposal if the extension being applied for were granted; and
- (b) no creditor would be materially prejudiced if the extension being applied for were granted.

BIA, s. 50.4(9).

Colossus at paras. 38-43, BOA, Tab 1.

Karrys at paras. 26-28, BOA, Tab 2.

30. In this instance, each of these factors has been met: the Applicants have acted, and continue to act in good faith in concluding the liquidation and pursuing the wind-down of their operations, and the extension will permit the Applicants to complete a proposal for presentation to their creditors.

Schipani Affidavit at paras. 41-42, Motion Record of the Applicants, Tab 2.
Third Report, at para. 38.

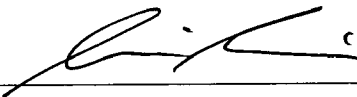
31. Further, the Extended Cash Flow Forecast prepared by the Applicants with the assistance of the Proposal Trustee indicates that the Applicants have sufficient cash flow to fund their post-filing obligations while the liquidation and wind-down of operations concludes during the Extended Cash Flow Period. The Proposal Trustee supports the extension of the Proposal Period.

Third Report, at para. 40; Extended Cash Flow Forecast, Third Report, Appendix D.

PART V - ORDER REQUESTED

32. The Applicants request that the Court grant the Extension Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 30th day of July, 2018.



Lawyers for the Applicants

SCHEDULE "A"
LIST OF AUTHORITIES

1. *Colossus Minerals Inc. (Re)*, 2014 ONSC 514
2. *In the Matter of the Notice of Intention to Make a Proposal of Karrys Bros. Limited, Karrys Software Limited and Karbro Transport Inc.*, Court File No. 32-1942339/1942340/194234, Order and Endorsement of Justice Penny, dated December 24, 2014

SCHEDULE "B"
RELEVANT STATUTES

Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3

Extension of time for filing proposal

50.4 (9) The insolvent person may, before the expiry of the 30-day period referred to in subsection (8) or of any extension granted under this subsection, apply to the court for an extension, or further extension, as the case may be, of that period, and the court, on notice to any interested persons that the court may direct, may grant the extensions, not exceeding 45 days for any individual extension and not exceeding in the aggregate five months after the expiry of the 30-day period referred to in subsection (8), if satisfied on each application that

- (a) the insolvent person has acted, and is acting, in good faith and with due diligence;
- (b) the insolvent person would likely be able to make a viable proposal if the extension being applied for were granted; and
- (c) no creditor would be materially prejudiced if the extension being applied for were granted.

Stay of proceedings – Division I proposals

69.1 (1) Subject to subsections (2) to (6) and sections 69.4, 69.5 and 69.6, on the filing of a proposal under subsection 62(1) in respect of an insolvent person,

- (a) no creditor has any remedy against the insolvent person or the insolvent person's property, or shall commence or continue any action, execution or other proceedings, for the recovery of a claim provable in bankruptcy, until the trustee has been discharged or the insolvent person becomes bankrupt;
- (b) no provision of a security agreement between the insolvent person and a secured creditor that provides, in substance, that on

- (i) the insolvent person's insolvency,
- (ii) the default by the insolvent person of an obligation under the security agreement, or
- (iii) the filing of a notice of intention under section 50.4 or of a proposal under subsection 62(1) in respect of the insolvent person, the insolvent person ceases to have such rights to use or deal with assets secured under the agreement as the insolvent person would otherwise have, has any force or effect until the trustee has been discharged or the insolvent person becomes bankrupt;

- (c) Her Majesty in right of Canada may not exercise Her rights under subsection 224(1.2) of the *Income Tax Act* or any provision of the *Canada*

Pension Plan or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the *Income Tax Act* and provides for the collection of a contribution, as defined in the *Canada Pension Plan*, an employee's premium, or employer's premium, as defined in the *Employment Insurance Act*, or a premium under Part VII.1 of that Act, and of any related interest, penalties or other amounts, in respect of the insolvent person where the insolvent person is a tax debtor under that subsection or provision, until

- (i) the trustee has been discharged,
- (ii) six months have elapsed following court approval of the proposal, or
- (iii) the insolvent person becomes bankrupt; and

(d) Her Majesty in right of a province may not exercise Her rights under any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the *Income Tax Act*, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum

- (i) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act*, or
- (ii) is of the same nature as a contribution under the *Canada Pension Plan* if the province is a *province providing a comprehensive pension plan* as defined in subsection 3(1) of the *Canada Pension Plan* and the provincial legislation establishes a *provincial pension plan* as defined in that subsection,

in respect of the insolvent person where the insolvent person is a debtor under the provincial legislation, until

- (iii) the trustee has been discharged,
- (iv) six months have elapsed following court approval of the proposal, or
- (v) the insolvent person becomes bankrupt.

Limitation

(2) The stays provided by subsection (1) do not apply

- (a) to prevent a secured creditor who took possession of secured assets of the insolvent person for the purpose of realization before the proposal was filed from dealing with those assets;
- (b) unless the secured creditor otherwise agrees, to prevent a secured creditor who gave notice of intention under subsection 244(1) to enforce that creditor's security against the insolvent person more than ten days before

(i) a notice of intention was filed in respect of the insolvent person under section 50.4, or

(ii) the proposal was filed, if no notice of intention under section 50.4 was filed

from enforcing that security;

(c) to prevent a secured creditor who gave notice of intention under subsection 244(1) to enforce that creditor's security from enforcing the security if the insolvent person has, under subsection 244(2), consented to the enforcement action; or

(d) [Repealed, 2012, c. 31, s. 417]

Limitation

(3) A stay provided by paragraph (1)(c) or (d) does not apply, or terminates, in respect of Her Majesty in right of Canada and every province if

(a) the insolvent person defaults on payment of any amount that becomes due to Her Majesty after the filing of the proposal and could be subject to a demand under

(i) subsection 224(1.2) of the *Income Tax Act*,

(ii) any provision of the *Canada Pension Plan* or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the *Income Tax Act* and provides for the collection of a contribution, as defined in the *Canada Pension Plan*, an employee's premium, or employer's premium, as defined in the *Employment Insurance Act*, or a premium under Part VII.1 of that Act, and of any related interest, penalties or other amounts, or

(iii) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the *Income Tax Act*, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum

(A) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act*, or

(B) is of the same nature as a contribution under the *Canada Pension Plan* if the province is a *province providing a comprehensive pension plan* as defined in subsection 3(1) of the *Canada Pension Plan* and the provincial legislation establishes a *provincial pension plan* as defined in that subsection; or

(b) any other creditor is or becomes entitled to realize a security on any property that could be claimed by Her Majesty in exercising Her rights under

- (i) subsection 224(1.2) of the *Income Tax Act*,
- (ii) any provision of the *Canada Pension Plan* or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the *Income Tax Act* and provides for the collection of a contribution, as defined in the *Canada Pension Plan*, an employee's premium, or employer's premium, as defined in the *Employment Insurance Act*, or a premium under Part VII.1 of that Act, and of any related interest, penalties or other amounts, or
- (iii) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the *Income Tax Act*, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum
 - (A) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act*, or
 - (B) is of the same nature as a contribution under the *Canada Pension Plan* if the province is a *province providing a comprehensive pension plan* as defined in subsection 3(1) of the *Canada Pension Plan* and the provincial legislation establishes a *provincial pension plan* as defined in that subsection.

Limitation

(4) If, by virtue of subsection 69(3), the stay provided by paragraph 69(1)(c) or (d) does not apply or terminates, the stay provided by paragraph (1)(c) or (d) of this section does not apply.

Secured creditors to whom proposal not made

(5) Subject to sections 79 and 127 to 135 and subsection 248(1), the filing of a proposal under subsection 62(1) does not prevent a secured creditor to whom the proposal has not been made in respect of a particular security from realizing or otherwise dealing with that security in the same manner as he would have been entitled to realize or deal with it if this section had not been passed.

Where secured creditors vote against proposal

(6) Subject to sections 79 and 127 to 135 and subsection 248(1), where secured creditors holding a particular class of secured claim vote for the refusal of a proposal, a secured creditor holding a secured claim of that class may henceforth realize or otherwise deal with his security in the same manner as he would have been entitled to realize or deal with it if this section had not been passed.

Courts vested with jurisdiction

183 (1) The following courts are invested with such jurisdiction at law and in equity as will enable them to exercise original, auxiliary and ancillary jurisdiction in bankruptcy

and in other proceedings authorized by this Act during their respective terms, as they are now, or may be hereafter, held, and in vacation and in chambers:

- (a) in the Province of Ontario, the Superior Court of Justice;
- (b) [Repealed, 2001, c. 4, s. 33]
- (c) in the Provinces of Nova Scotia and British Columbia, the Supreme Court;
- (d) in the Provinces of New Brunswick and Alberta, the Court of Queen's Bench;
- (e) in the Province of Prince Edward Island, the Supreme Court of the Province;
- (f) in the Provinces of Manitoba and Saskatchewan, the Court of Queen's Bench;
- (g) in the Province of Newfoundland and Labrador, the Trial Division of the Supreme Court; and
- (h) in Yukon, the Supreme Court of Yukon, in the Northwest Territories, the Supreme Court of the Northwest Territories, and in Nunavut, the Nunavut Court of Justice.

Superior Court jurisdiction in the Province of Quebec

(1.1) In the Province of Quebec, the Superior Court is invested with the jurisdiction that will enable it to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during its term, as it is now, or may be hereafter, held, and in vacation and in chambers.

Courts of appeal – common law provinces

(2) Subject to subsection (2.1), the courts of appeal throughout Canada, within their respective jurisdictions, are invested with power and jurisdiction at law and in equity, according to their ordinary procedures, except as varied by this Act or the General Rules, to hear and determine appeals from the courts vested with original jurisdiction under this Act.

Court of Appeal of the Province of Quebec

(2.1) In the Province of Quebec, the Court of Appeal, within its jurisdiction, is invested with power and jurisdiction, according to its ordinary procedures, except as varied by this Act or the General Rules, to hear and determine appeals from the Superior Court.

Supreme Court of Canada

(3) The Supreme Court of Canada has jurisdiction to hear and to decide according to its ordinary procedure any appeal so permitted and to award costs.

Rules of Civil Procedure, R.R.O. 1990, Reg. 194

General Principle

1.04 (1) These rules shall be liberally construed to secure the just, most expeditious and least expensive determination of every civil proceeding on its merits.

Proportionality

(1.1) In applying these rules, the court shall make orders and give directions that are proportionate to the importance and complexity of the issues, and to the amount involved, in the proceeding.

Matters Not Provided For

(2) Where matters are not provided for in these rules, the practice shall be determined by analogy to them.

(3) REVOKED: O. Reg. 231/13, s. 2.

"Party and Party" Costs

(4) If a statute, regulation or other document refers to party and party costs, these rules apply as if the reference were to partial indemnity costs. O. Reg. 284/01, s. 3.

"Solicitor and Client" Costs

(5) If a statute, regulation or other document refers to solicitor and client costs, these rules apply as if the reference were to substantial indemnity costs. O. Reg. 284/01, s. 3.

ORDERS ON TERMS

1.05 When making an order under these rules the court may impose such terms and give such directions as are just. R.R.O. 1990, Reg. 194, r. 1.05.

COURT MAY DISPENSE WITH COMPLIANCE

2.03 The court may, only where and as necessary in the interest of justice, dispense with compliance with any rule at any time.

General Powers of Court

3.02 (1) Subject to subrule (3), the court may by order extend or abridge any time prescribed by these rules or an order, on such terms as are just.

(2) A motion for an order extending time may be made before or after the expiration of the time prescribed.

Times in Appeals

(3) An order under subrule (1) extending or abridging a time prescribed by these rules and relating to an appeal to an appellate court may be made only by a judge of the appellate court.

Consent in Writing

(4) A time prescribed by these rules for serving, filing or delivering a document may be extended or abridged by filing a consent.

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ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto

FACTUM OF THE APPLICANTS
(EXTENSION OF PROPOSAL PERIOD)

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